

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Government,

HONORABLE GEORGE CARAM STEEH

v.

No. 15-20652

D-3 EUGENE FISHER,  
D-4 COREY BAILEY,  
D-6 ROBERT BROWN,  
D-13 ARLANDIS SHY,  
D-19 KEITHON PORTER,

Defendants.

JURY TRIAL

Wednesday, July 18, 2018

- - -

APPEARANCES:

For the Government:

JULIE FINOCCHIARO, ESQ.  
JUSTIN WECHSLER, ESQ.  
TARE WIGOD, ESQ.  
MARK BILKOVIC, ESQ.  
Assistant U.S. Attorneys

For the Defendants:

HENRY M. SCHARG, ESQ.  
On behalf of Eugene Fisher  
  
CRAIG DALY, ESQ.  
KEITH SPIELFOGEL, ESQ.  
On behalf of Corey Bailey  
  
JAMES FEINBERG, ESQ.  
On behalf of Robert Brown  
  
MARK MAGIDSON, ESQ.  
JOHN THEIS, ESQ.  
On behalf of Arlandis Shy

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STEVEN SCHARG, ESQ.  
On behalf of Keithon Porter

- - -

*To Obtain Certified Transcript, Contact:*  
*Ronald A. DiBartolomeo, Official Court Reporter*  
*Theodore Levin United States Courthouse*  
*231 West Lafayette Boulevard, Room 1067*  
*Detroit, Michigan 48226*  
*(313) 962-1234*

*Proceedings recorded by mechanical stenography.*  
*Transcript produced by computer-aided transcription.*

I N D E X

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Page

**VINCENTE RUIZ**

Direct examination cont. by Ms. Finocchiaro	10
Cross examination by Mr. H. Scharg	44
Cross examination by Mr. Daly	47
Cross examination by Mr. Feinberg	54
Cross examination by Mr. Magidson	57
Cross examination by Mr. S. Scharg	59
Redirect examination by Ms. Finocchiaro	73

**JOSEPH JENSEN**

Direct examination by Mr. Wigod	77
Voir Dire examination by Mr. H. Scharg	89
Direct examination cont. by Mr. Wigod	97

1	<b>E X H B I T S</b>		
2	<u>Identification</u>	<u>Offered</u>	<u>Received</u>
3	Government Exhibit No. 40	15	15
4	Government Exhibit No. 29	19	19
5	Government Exhibit No. 30	26	26
6	Government Exhibit No. 31	29	29
7	Government Exhibit No. 38	31	31
8	Government Exhibit Nos. 28, 28A	35	35
9	Government Exhibit No. 32	36	36
10	Government Exhibit No. 37	37	37
11	Government Exhibit No. 27	39	39
12	Government Exhibit No. 466	39	40
13	Government Exhibit No. 36	101	101

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Detroit, Michigan

Wednesday, July 18, 2018

At 8:42 a.m.

- - -

(Proceedings held without jury.)

**THE COURT:** So the Court has had the opportunity to read the briefs submitted in relation to the recently decided case of Carpenter versus United States, and based upon the Court's review of it, I had one question. Who will be arguing for the defendants?

**MR. DALY:** Judge, I will.

**THE COURT:** Mr. Daly?

**MR. DALY:** Yes.

**THE COURT:** So since the decision in Carpenter, there's been quite a number of opinions, most importantly in the Sixth Circuit we have Pembroke to deal with.

Can you tell me why I ought not to be relying on Pembroke, which appears to be -- which is a published opinion by Sixth Circuit, and directs the Court to consider the good faith exception?

**MR. DALY:** Judge, the analysis that we make is based on the decisions by the United States Supreme Court, and let me start by saying that we both agree --

1 meaning both the government and the defense -- that  
2 Carpenter does apply. Our analysis is that it is a  
3 question of retroactivity, not a good faith exception, and  
4 so notwithstanding *Pembroke*, the United States Supreme  
5 Court has never said that the good faith exception applies  
6 to a discretionary decision by lawyers, right?

7 Leon says that the good faith exception comes as  
8 an exception as to the rule that the police should get a  
9 warrant, and if they get a warrant, and somebody else  
10 makes a mistake, such as the judge in determining that  
11 there is probable cause, they shouldn't be held  
12 responsible.

13 *Pembroke* doesn't engage in that analysis.  
14 *Pembroke* doesn't address the fact that in this case and in  
15 *Carpenter*, it was the U.S. Attorney's Office that made a  
16 discretionary decision.

17 So both the lawyers on both sides, the government  
18 side and defense side, took an oath to uphold the  
19 Constitution and to protect Mr. Bailey's Constitutional  
20 Rights, and what they are seeking to do is something that  
21 the United States Supreme Court has never done, which is  
22 an extension of good faith to a decision that they made.  
23 So they had the option to get a search warrant, and they  
24 chose not to do that. That was their decision, and so now  
25 they need to pay the price for that decision. They don't

1 get a pass because they made that decision.

2 That's different than Leon, and it's different  
3 than Pembroke that doesn't make this analysis because here  
4 the government is --

5 **THE COURT:** Admittedly Pembroke has little  
6 discussion of the issue, but the Sixth Circuit -- and  
7 we're, of course, bound by Sixth Circuit opinions -- has  
8 declared pretty flatly that the -- the suppression of the  
9 evidence in this context would not deter others. We are  
10 dealing with the exclusionary rule, and the decision  
11 whether the exclusionary rule applies or not is an  
12 important part of this equation that even your well pled  
13 motion doesn't really address the -- well, so my question  
14 was, why are we not bound by the Sixth Circuit? I have  
15 not heard you address that yet.

16 **MR. DALY:** And the distinction that I'm  
17 making is the difference between the United States Supreme  
18 Court that you're bound by, as oppose to the Sixth  
19 Circuit. So I'm asking you to look beyond Pembroke, look  
20 to the United States Supreme Court, and whether or not the  
21 United States Supreme Court has ever said that good faith  
22 applies to discretionary decisions made by lawyers in the  
23 United States Attorney's Office, and the answer to that is  
24 that they haven't. They've never extended it to it  
25 because the underlying policy reasons for the good faith

1 exceptions, they don't apply to lawyer decisions.

2 So that's what I'm doing. I'm stepping beyond  
3 Pembroke. I understand what you're saying, that Pembroke  
4 is Sixth Circuit, and you feel bound by it. I'm asking  
5 you to step beyond Pembroke.

6 **THE COURT:** How I feel about it doesn't  
7 matter, but it is a precedential rule obviously.

8 **MR. DALY:** Well, Pembroke, of course, cert  
9 has been filed. The petition has been filed. There has  
10 been no ruling yet on whether or not Pembroke is going to  
11 be binding Sixth Circuit precedent. So that is not the  
12 final say so. If the United States Supreme Court grants  
13 cert, you know, it may very well that Pembroke is not the  
14 law, and they could reverse just like they did in  
15 Carpenter, and if you rule in favor of the government and  
16 go forward and use the evidence, they will do it at their  
17 own risk with the possibility that Pembroke will be  
18 reversed.

19 **THE COURT:** All right. Thank you, Mr. Daly.

20 I think at this time the Court is constrained as  
21 my questions have suggested by the decisions in the Sixth  
22 Circuit. In this instance while the exclusionary rule has  
23 not been necessarily used exactly in this context, there  
24 are cases where suppression -- suppression order is not in  
25 order when the actors in this case, the police officers,



1 are acting on the basis of well-settled statutory law, and  
2 in addition in this case, of course, we have the Stored  
3 Communications Act, which explicitly authorized the  
4 officers' use of a subpoena as oppose to a search warrant,  
5 and it would appear from a fairness standpoint that while  
6 nobody questions the fact that protected privacy rights  
7 are accorded by Carpenter to the defendants and have that  
8 right invaded by the use of the mechanism set forth in the  
9 Stored Communications Act, it is the epitome of good faith  
10 exception of law that's represented here.

11 The officers -- I also understand defense  
12 argument -- and I do have to say I think the defense  
13 argument in its brief is cogent and real reasoned and  
14 might serve for the basis for the Supreme Court to reverse  
15 a ruling in this instance, but in the meantime, the Court  
16 is bound by the Sixth Circuit decision in *Pembroke*. In  
17 *Pembroke*, there's a Footnote 14 that expressly disavows  
18 Carpenter as the basis for its decision, and so the Court  
19 is going to overrule the objections made by defendants to  
20 the introduction of this evidence.

21 So I think we're ready for the jurors unless there  
22 is something else.

23 **MS. FINOCCHIARO:** If I may have one moment to  
24 check with Agent Ruiz. He is our first witness.

1                   **THE COURT:** Sure.

2                   **MS. FINOCCHIARO:** We're ready, your Honor.

3                   **THE COURT:** Okay.

4

5                   (Proceedings with jury at 8:51 a.m.)

6

7                   **THE COURT:** Okay. You can take a seat. Good  
8 morning, everyone.

9                   We will call on Ms. Finocchiaro.

10                  **MS. FINOCCHIARO:** Yes. The government  
11 recalls Special Agent Ruiz.

12                  **THE COURT:** Okay. Agent Ruiz, you are still  
13 under oath.

14

15                               **V I C E N T E   R U I Z**

16

17                               **DIRECT EXAMINATION CONT.**

18

19 **BY MS. FINOCCHIARO:**

20

21               **Q.** Good morning, Special Agent.

22               **A.** Good morning.

23               **Q.** Today I just want to talk about addresses and phone  
24 numbers.

25               **A.** Okay.

1 Q. We heard about the May 1, 2015 shooting of Raphael  
2 Carter. Where did that occur?

3 A. 15007 Troester in Detroit, Michigan.

4 Q. And what section of the city?

5 A. Detroit's east side. Specifically that house is on  
6 the corner of Queen and Troester.

7 Q. 15007 Troester?

8 A. That's correct.

9 Q. We heard about the May 8, 2015 homicide of Devonte  
10 Roberts and shooting as well?

11 A. Yes.

12 Q. What location was that to remind the jury? Where  
13 did that occur?

14 A. In the intersection of Duchess and Craft in Detroit,  
15 Michigan, east side.

16 Q. East side?

17 A. Yes.

18 Q. Duchess and Craft you said?

19 A. Yes.

20 Q. And we heard about the May 10, 2015 of Darnell  
21 Canady, Derrick Peterson and Gaskin?

22 A. That's correct.

23 Q. Where was that at?

24 A. That occurred on the southwest corner of State Fair  
25 and Hoover in Detroit, Michigan, also on the east side.

1           Q. Again, the intersection of Hoover and East State  
2 Fair?

3           A. Yes.

4           Q. And we heard about the shooting that occurred at a  
5 baby shower at Athena Hall on June 7, 2015. Do you know  
6 the address of that?

7           A. Yes, 25650 Gratiot Avenue in Roseville, Michigan.

8           Q. 25650 Gratiot?

9           A. That's correct.

10          Q. That was in Roseville and not Detroit?

11          A. Yes.

12          Q. What side of the city is Roseville on?

13          A. Northeast.

14          Q. Now during the course of your investigation, did you  
15 come across an address for Eugene Fisher?

16          A. Yes.

17          Q. What's that address?

18          A. 18803 Lamont. That's in Detroit, Michigan, also on  
19 the east side.

20          Q. 18830 Lamont?

21          A. Yes.

22          Q. And how did you associate that address with him?

23          A. A couple of different ways. In September of 2015,  
24 he made a police report that his meter -- electric meter  
25 was stolen. He provided 18803 Lamont as his residential

1 address.

2 Q. Any other way?

3 A. We executed a search warrant on November 12, 2015 at  
4 that residence. We encountered Eugene Fisher inside the  
5 residence at that time. Part of the items that we seized  
6 on that --

7 MR. H. SCHARG: Can he talk about what he did  
8 and not what we did?

9 THE WITNESS: Okay.

10  
11 BY MS. FINOCCHIARO:

12 Q. What items?

13 A. I was part of the raid team that executed a search  
14 warrant. I spoke to Mr. Eugene Fisher that day. I seized  
15 items of evidence to include proof of residency from that  
16 location for Mr. Eugene Fisher.

17 Q. Okay. And how about for Mr. Keithon Porter? Is  
18 there an address that he's associated with?

19 A. Yes, ma'am, 20304 Dresden in January of 2012.

20 Q. 20304 Dresden?

21 A. Yes.

22 Q. What city?

23 A. Detroit, Michigan, east side.

24 Q. And explain to the jury how you attached that  
25 address to Mr. Porter?

1           **A.** Yes. In January of 2012, Mr. Porter used that  
2 address to obtain a driver's license with the Secretary of  
3 State of Michigan, and June 21th --

4           **Q.** Let me stop you for a minute. He used that address  
5 for his driver's license with the Michigan Secretary of  
6 State?

7           **A.** Yes.

8           **Q.** And how about Mr. Robert Brown? Is there an address  
9 associated with him?

10          **A.** Yes.

11          **Q.** What was that?

12          **A.** 7211 Meadow Avenue in Warren, Michigan.

13          **Q.** 7211 Meadow?

14          **A.** Yes.

15          **Q.** How was he attached to that address?

16          **A.** The jury previously heard testimony that on  
17 April 11, 2015, they saw a video of a fight that occurred  
18 in the Eastland Mall. As part of that video and  
19 investigation, the license plate of the vehicle was  
20 observed. It was registered to Tanisha Mumford and came  
21 back to 7211 Meadow. Warren Police Department responded  
22 to that address, as well as Eastpointe Police Officers and  
23 encountered Mr. Brown at 7211 Meadow Avenue.

24          **Q.** Now going back briefly to the 5-8-15 the Duchess  
25 and Craft incident, have you had seen a map showing some

1 addresses that we spoke about with regards to that date?

2 A. Yes.

3 Q. Showing you what's been marked as Government Exhibit  
4 44 for identification --

5 A. Okay.

6 Q. -- is this the map that has some of the addresses  
7 that we have been speaking about?

8 A. This map has 7211 Meadow, Warren, Michigan on it.  
9 It also has 20304 Dresden in Detroit, Michigan on it, and  
10 it also has the intersection of Craft and Duchess, which  
11 is in Detroit, Michigan also on it?

12 MS. FINOCCHIARO: At this time I would like  
13 to admit Government Exhibit 40.

14 THE COURT: Any objection?

15 MR. MAGIDSON: No objection.

16 THE COURT: The Court will receive it.

17 MS. FINOCCHIARO: And I will publish to the  
18 jury using the Elmo.

19

20 BY MS. FINOCCHIARO:

21 Q. Special Agent Ruiz, can you point out what we are  
22 looking at here on this map?

23 A. Certainly. In the top left corner of the map, you  
24 see the address for 7211 Meadow. From left to right you  
25 the see the address of 20304 Dresden, and in the bottom

1 right corner you see a blue marker there at the  
2 intersection of Craft and Duchess.

3 Q. Can you tell based on this map the direction that we  
4 are looking at north, south, east, west?

5 A. North is up on this particular map. This is the  
6 east side of Detroit. North of Eight Mile is Warren.

7 Q. This is the location that we just discussed?

8 A. Correct.

9 Q. I would like to talk about some phone numbers. Were  
10 you able in the course of your investigation get a phone  
11 number for Mr. Corey Bailey?

12 A. Yes.

13 Q. What was the phone number that you got?

14 A. (313)784-6729.

15 Q. How were you able -- what are some of the sources  
16 you used to get that phone number from Mr. Bailey?

17 A. On July 22, 2014, the jury heard that Corey Bailey  
18 was arrested in front or near 15621 Novara when a fire  
19 investigator observed him trying to conceal a pistol.  
20 When he was arrested, his property was conveyed with him  
21 to the Detroit Detention Center. One of the FBI TFO  
22 seized that cell phone from his property.

23 Q. Is there other ways that you have seen that number  
24 associated with Mr. Bailey?

25 A. Yes. That number was saved in a phone that was



1       ceased from Billy Arnold. That number was saved in there  
2       under the contact name Cocaine.

3       Q. Let me stop you there. Let me pull up Exhibit 21,  
4       Page 5.

5       A. 109 -- I'm sorry. It's 105.

6       Q. It's at the top here. You said this is Billy  
7       Arnold's contact list?

8       A. Correct.

9       Q. What do we see here?

10      A. We see he saved that particular phone number  
11      (313)784-6729 as the name Cocaine.

12      Q. We heard Cocaine referred to as Cocaine Sonny,  
13      Mr. Bailey?

14      A. Correct.

15      Q. Any other contacts that you have seen that number  
16      in?

17      A. A phone was seized from Mr. Robert Brown. This  
18      phone number was saved in his contact list as well under  
19      the name Sonny.

20      Q. Pull up Exhibit 16, Page 18. What do we see here?

21      A. Yes. That is what we are seeing, (313)784-6729,  
22      stored as the contact name Sonny.

23      Q. As part of your investigation for this number ending  
24      in 6729, did you reach out to the phone company to get the  
25      subscriber and cell tower records?

1           **A.** Yes.

2           **Q.** Explain to the jury how you did that.

3           **A.** To obtain cell records with cell tower information,  
4 a court order at the time of this was required, 2703(d)  
5 court order. We obtained a 2703 court order from a U.S.  
6 Magistrate, served it upon the cell company, and they, in  
7 fact, returned their business records for the time frame  
8 specified and for the number that we asked them for.

9           **Q.** Generally what is the information that they provide  
10 in that return?

11          **A.** They provide the subscriber information, which will  
12 include a name of a person. Sometimes -- oftentimes,  
13 people will use aliases. It may include the subscriber's  
14 address, type of phone device that's used. It can include  
15 the time that the account originated. If the account  
16 number has been terminated, it will give you that date.  
17 As part of the detail records, you get incoming and  
18 outgoing calls, text messages -- not actual messages  
19 themselves, but the mere fact that the event occurred at a  
20 date and time, and the direction. It also gives cell  
21 tower information which you will probably hear more about  
22 today.

23          **Q.** I will show you what's been marked as Government  
24 Exhibit 29. Does this contain the information that you  
25 just discussed for the phone number ending in Mr. Bailey's

1 number 6729?

2 A. That's correct.

3 MS. FINOCCHIARO: I move for admission of  
4 Government Exhibit 29.

5 THE COURT: Any objection?

6 MR. DALY: The admissibility of that has been  
7 litigated.

8 THE COURT: Thank you. The Court will  
9 receive the item.

10 MS. FINOCCHIARO: Thank you, your Honor.

11

12 BY MS. FINOCCHIARO:

13 Q. During your investigation, have you gotten a phone  
14 number for Mr. Keithon Porter?

15 A. Yes, I have.

16 Q. Okay. What is that number?

17 A. (313)806-0837.

18 MR. S. SCHARG: I would place an objection on  
19 the record. Can we approach the bench, or do you want me  
20 to do it in front of the jury regarding foundation, lack  
21 of foundation as to this?

22 THE COURT: Let's approach.

23

24 (Sidebar on the record.)

25

1                   **MR. S. SCHARG:** My client wants me to object  
2 as to the foundation for this number. Is it being  
3 recorded?

4                   **THE COURT:** Yes.

5                   **MR. S. SCHARG:** There are a number of  
6 reasons. One is Officer -- Agent Ruiz testified on  
7 July 11th where he indicated that prior to the date of  
8 November 2015, no phone was ever recovered from Mr.  
9 Porter's person. They did say that he was stopped by  
10 Warren with that phone, but there has been no proof of  
11 verification that that number was -- came back from any  
12 phone, Verizon, none of them are saying that it belonged  
13 to Mr. Porter. In fact, there's documentation to show  
14 that it belonged to somebody else.

15                   There's also testimony from the first trial,  
16 February 12, 2018, in front of you in the first trial,  
17 where Officer Ruiz testified that the phone number  
18 belonged to Eugene Fisher.

19                   So for him now to say that this phone belongs to  
20 my client, I think that's improper, or possibly lying  
21 under oath because he testified under oath that the phone  
22 belonged to Eugene Fisher in the first trial. I have the  
23 transcript.

24                   **MS. FINOCCHIARO:** I don't recall that off  
25 hand. I will have to look that up what Agent Ruiz

1 testified to.

2 In terms of foundation, that is a number that  
3 appeared in contact lists both as K.P. for one of the  
4 co-defendants, as well as lower case P, upper case K, and  
5 we heard testimony that it was used by an undercover cover  
6 where Mr. Porter showed up. So there's sufficient  
7 foundation for Agent Ruiz to connect that number to Mr.  
8 Porter for purposes of his testimony.

9 **THE COURT:** You will have the opportunity to  
10 cross.

11 **MR. S. SCHARG:** Can I, instead of keep  
12 objecting, have a standing objection?

13 **THE COURT:** Sure. Okay.

14 **MR. S. SCHARG:** Thank you.

15 **MR. H. SCHARG:** I have no objection of Ruiz,  
16 you know, testifying intermittently during to the trial,  
17 and you agreed, but's there's an old saying, you give  
18 somebody a shield, you can't use it as a sword. Every  
19 time he comes up, he goes back and reemphasizes the  
20 testimony that he gave before. He says, as the jury heard  
21 before, reemphasizing. That was not the purpose of this.

22 The purpose was that intermittently he was suppose  
23 to come up and bring in additional evidence and not go  
24 over and repeat. Every time he comes up, he's repeating  
25 his testimony and evidence.

1           That's unfair. That's not was not the purpose of  
2           him testifying intermittently, because if he was  
3           testifying once, he would not be able to do that, and just  
4           because they want to break up his testimony, that's  
5           improper and not appropriate.

6           **MS. FINOCCHIARO:** Agent Ruiz is the case  
7           agent in this case, and I told defense in advance of today  
8           that Joe Jensen is going to testify about phone numbers,  
9           and I would create an exhibit which the Court has, defense  
10          counsel has, that has the phone number with the  
11          defendant's names and how it's associated with that  
12          person. He's not trying to reiterate what he has  
13          testified to, but explain to the jury what this sheet  
14          shows to explain how the number is connected to the person  
15          for the purposes of the testimony Joe Jensen, as well as  
16          connecting the dots.

17          **MR. H. SCHARG:** Every time he gets up, he  
18          reiterates back to his previous testimony, and he refers  
19          to the fact that the jury has already heard this. What  
20          they want to have accomplished can be done properly  
21          without repeating himself and without the coining the  
22          phrase as the jury heard before.

23          **THE COURT:** I haven't perceived it as  
24          repeating at this point. There is a mass of information  
25          that the witness is tying together contextually, and that

1 is a -- I think not only an appropriate way of putting in  
2 the evidence, but necessary for the jury to understand the  
3 evidence that's offer. So if I perceive it as undue  
4 repetitiveness, I'll certainly reconsider it at that  
5 point.

6 **MR. H. SCHARG:** What about the witness  
7 constantly -- and he has constantly referred -- testified  
8 as the jury has heard before, as I have told the jury  
9 before? That's going beyond what the Court has allowed,  
10 and what is appropriate. That's the biggest problem that  
11 I have. I understand to lay a little foundation, but as I  
12 told you before, as you learned before, that's  
13 emphasizing. That's not only reiterating, that's  
14 emphasizing certain testimony.

15 **THE COURT:** It is identifying the evidence  
16 that he has connected to whatever the address or the  
17 individual --

18 **MR. H. SCHARG:** Why does he have to give a  
19 preference as I told the jury?

20 **MR. WECHSLER:** Isn't it worst if he doesn't  
21 do that, because then he's just saying, on July 22nd,  
22 Corey Bailey was arrested with gun.

23 **MR. H. SCHARG:** I'm fine with that. I don't  
24 think he should be lecturing the jury and telling the jury  
25 and emphasizing and telling them what they heard before.

1 It is up to them to determine what they heard. It's not  
2 for him to lecture and tell them what they hear.

3 **THE COURT:** All right. Again, I haven't  
4 perceive that.

5 **MR. H. SCHARG:** At least keep one of the  
6 lights on.

7 **MR. S. SCHARG:** And my objection is noted  
8 throughout?

9 **THE COURT:** Yes.

10 **MS. FINOCCHIARO:** Thank you.

11  
12 (Sidebar conference concluded.)

13  
14 **THE COURT:** You may continue.

15  
16 **BY MS. FINOCCHIARO:**

17 **Q.** I believe we were talking about the number ending in  
18 0837?

19 **A.** That's correct.

20 **Q.** And you say that belonged to Mr. Keithon Porter?

21 **A.** That's correct.

22 **Q.** And where -- what sources did you have for that  
23 information?

24 **A.** Yesterday we heard from an officer in Warren who was  
25 doing an undercover operation and purchased drugs from



1 Keithon Porter, and was in communication with Keithon  
2 Porter back on November 11th, the initial drug  
3 transaction, and then November 17th was the second drug  
4 transaction, in which Keithon Porter was arrested and  
5 those phones were recovered.

6 Q. A phone with that number?

7 A. Correct.

8 Q. Just to be clear, we don't have the phone itself  
9 today?

10 A. No, we do not.

11 Q. Was there any other areas where that phone number  
12 showed up in that it was connected to Mr. Porter?

13 A. Yes. He in the phone that was seized from Corey  
14 Bailey's property. In that contact list was this number  
15 stored with the contact name KP.

16 Q. If we can pull up Exhibit 11, Page 10. What do we  
17 see on 235 and 236?

18 A. 235 and 236?

19 Q. Yes.

20 A. You see the telephone number (313)806-0837. Line  
21 235 it says KP for the contact name, and Line 236 it also  
22 says KP.

23 Q. Is there another contact list that this number  
24 showed up in?

25 A. Yes.

1 Q. Who was that?

2 A. We seized the phone from 18803 Lamont that belonged  
3 to Eugene Fisher. In that contact list this same number  
4 appears to be stored under the contact name of P.K.

5 Q. Go to Exhibit 15, Page 8. That is Line 251.

6 A. Yes, telephone number (313)806-0837, contact name  
7 P.K.

8 Q. Lower case P and upper case K?

9 A. Yes.

10 Q. Like Mr. Bailey's phone number, did you do a court  
11 order and get information from the phone company for this  
12 number?

13 A. Yes, I did.

14 Q. I will show you what's been marked as Government  
15 Exhibit 30 for identification. Does this contain the  
16 information that you got back from the phone company for  
17 that number?

18 A. Yes, it does.

19 MS. FINOCCHIARO: Move for admission of  
20 Government Exhibit 30.

21 THE COURT: All right. The Court will  
22 receive the evidence.

23

24 BY MS. FINOCCHIARO:

25 Q. Now during the course of your investigation, did you

1       come across a phone number for Robert Brown?

2           **A.** Yes, I did.

3           **Q.** What's that phone number?

4           **A.** (313)320-3075.

5           **Q.** Okay. What's the source of connecting that number  
6       to Mr. Brown?

7           **A.** On March 1, 2016, a search warrant was executed at  
8       1624 Lozier in Warren, Michigan. At that time we arrested  
9       Mr. Brown, and in possession -- in his possession were  
10      several cell phones, to include a cell phone that had this  
11      number.

12          **Q.** Did this appear in the contact list?

13          **A.** Yes, it did.

14          **Q.** We have not discussed this yet, but on September 26,  
15      2015, was Andrew Thomas or Chino arrested?

16          **A.** Yes.

17          **Q.** And a phone was recovered?

18          **A.** Yes, it was.

19          **Q.** Was that phone dumped?

20          **A.** We did a cell phone extraction of his telephone.

21          **Q.** Explain where Mr. Brown's number appears in context?

22          **A.** In Andrew Thomas' cell phone that we did a cell  
23      phone extraction on, this number appeared under the  
24      contact name R.O.

25          **Q.** Okay. Is that the nickname for Mr. Brown?

1           A. That's correct.

2           Q. Go to Exhibit 466, Page 6, and what line does it  
3 appears on?

4           A. I think it is 132.

5           Q. And explain to the jury --

6           A. The phone number stored in there is 1(313)320-3075,  
7 stored under the contact name R.O.

8           Q. Were there other contact lists that it appeared  
9 under?

10          A. Yes, in the phone that was seized at the time of  
11 Corey Bailey's arrest, that same number was stored in his  
12 contact list as Big Rob.

13          Q. Go to Exhibit 11, Page 5.

14          A. Line 49, phone number (313)320-3075, contact name  
15 Big Rob.

16          Q. Big Rob is another nickname that Robert Brown went  
17 by?

18          A. Yes.

19          Q. And was there any other contact list that this  
20 number appeared on?

21          A. Yes. Devon Patterson also had his phone number  
22 saved on this contact list as Big Rob.

23          Q. Exhibit 13, Page 24.

24          A. Line 363.

25          Q. What do we see?

1           **A.**   (313)320-3075, contact name Big Rob.

2           **Q.**   And did you also reach out to the phone companies  
3           for this number and get back the subscriber and cell tower  
4           information?

5           **A.**   Yes.

6           **Q.**   I will show you what's been marked Government  
7           Exhibit 31 for identification. Government Exhibit 31 is  
8           the return from the phone company for that number?

9           **A.**   Yes, it is.

10                   **MS. FINOCCHIARO:** Move for admission of  
11           Government Exhibit 31.

12                   **THE COURT:** Any objection? Hearing none, the  
13           Court will receive the item.

14

15 **BY MS. FINOCCHIARO:**

16           **Q.**   Now through the investigation, did you get a number  
17           for Mr. Arlandis Shy?

18           **A.**   Yes, I did.

19           **Q.**   And what is that number?

20           **A.**   (313)671-6022.

21           **Q.**   And can you describe the source where that number  
22           came from?

23           **A.**   Sure. On May 19, 2015, he provided that number  
24           himself to the Michigan Department of Corrections.

25           **Q.**   Is there any place that this number appeared?

1           **A.** Yes, it's stored in a Samsung tablet that we  
2 received at 18803 Lamont, Mr. Fisher. It was stored as a  
3 contact in that device as A-Grymee.

4           **Q.** Exhibit 15A, Page 2. What do we see?

5           **A.** Mobile number 1 (313)672-6022, contact name  
6 A-Grymee.

7           **Q.** Now we heard that Grymee is in association with  
8 Mr. Arlandis Shy?

9           **A.** Yes.

10          **Q.** And is there any other contact lists that this  
11 appeared in?

12          **A.** A cell phone was also seized at the time of the  
13 search warrant execution belonging to Mr. Fisher, which  
14 that number was saved in that device as well as A Grymee.

15          **Q.** Exhibit 15, Page 2, and again, what do we see here?

16          **A.** Phone number (313)672-6022, contact name A-Grymee.

17          **Q.** Any other contact that this appeared in?

18          **A.** Yes. It also appeared in James Robinson's cell  
19 phone, stored contact name Vill.

20          **Q.** Vill?

21          **A.** Yes.

22          **Q.** Is that a nickname for Mr. Shy?

23          **A.** Yes.

24          **Q.** Exhibits 14, Page 24, and what line is that?

25          **A.** Line 406, mobile number (313)672-6022, contact name

1 Vill.

2 Q. And did you have the opportunity to reach out to the  
3 phone company and get the information subscriber and or  
4 cell tower for this?

5 A. Yes.

6 Q. Showing you Government Exhibit 38, is this the  
7 information that you received from the phone company for  
8 the number 6022?

9 A. Yes, it is.

10 MS. FINOCCHIARO: At this time the government  
11 moves for admission of Government Exhibit 38.

12 THE COURT: Any objection?

13 MR. MAGIDSON: No objection.

14 THE COURT: The Court will receive it.

15

16 BY MS. FINOCCHIARO:

17 Q. Special Agent, during the course of the  
18 investigation, did you get a phone number for Mr. Eugene  
19 Fisher?

20 A. Yes.

21 Q. What was that number?

22 A. (313)728-0167.

23 Q. What was the source of that number connecting it to  
24 Mr. Fisher?

25 A. The phone seized at the time of the search warrant

1 execution at 18803 Lamont had that number for that device.  
2 I believe it was also used in his Facebook account that we  
3 reviewed previously. In addition to that, it was stored  
4 in Devon Patterson's contact list as Eugene Fisher.

5 Q. Go to Exhibit 13, Page 51, and what do we see here?

6 A. Line 1227, we see the mobile number 1(313)728-0167,  
7 contact name is a little cut off, but it says Eugene  
8 Fisher.

9 Q. That's what we were just looking at?

10 A. Yes.

11 Q. Okay. Now were you able to get phone numbers for  
12 Mr. Billy Arnold?

13 A. Yes, three of them.

14 Q. Let's start with the first one or one of the ones  
15 that you got for him. What is the number that you got for  
16 Mr. Billy Arnold?

17 A. One number that I got from Billy Arnold at the time  
18 of his arrest on September 26, 2015 was (313)424-8378.

19 Q. Does that number appear in contact lists?

20 A. Yes, it does.

21 Q. Can you explain where it appears?

22 A. It was stored in Andrew Thomas' contact under the  
23 name Killa.

24 Q. Go to 466, Page 4. What do we see here?

25 A. The mobile number (313)424-8378, contact name Killa.



1 Q. Is that a nickname for Mr. Arnold?

2 A. Yes.

3 Q. Does it appear on other contact lists?

4 A. Yes, it does.

5 Q. Explain that to the jury.

6 A. It is in the Samsung tablet seized from Fisher's  
7 home. It was stored under the name B-Man.

8 Q. Go to Exhibit 15A, Page 2.

9 A. I think it is Line 21, mobile number (313)424-8378,  
10 contact name B-Man.

11 Q. Along with Killa, is B-Man a nickname for Mr.  
12 Arnold?

13 A. Yes.

14 Q. Does it in other contact lists?

15 A. Yes, it does.

16 Q. Can you explain that?

17 A. It's stored in Robert Brown's cell phone under the  
18 contact name Killer.

19 Q. Go to Exhibit 16, Page 11, Line 123.

20 A. Mobile number (313)424-8378, name Killer.

21 Q. Does it appear in any other contacts list?

22 A. It appears on Devon Patterson's as Berenzo.

23 Q. Exhibit 23, Page 23. You see the line on here?

24 A. I -- it is difficult to see. There's several  
25 numbers under the contact Berenzo, (313)424-8378 is one of

1       them.

2       Q.   Okay.  Are you -- you said there were three numbers  
3       that you were going to talk about.  Do you see the other  
4       two numbers?

5       A.   Yes.  The other two numbers that I have for Billy  
6       Arnold are (212)470-3434, and (212)470-1934.

7       Q.   You said this is Devon Patterson's phone contact  
8       list?

9       A.   Yes.

10      Q.   Along with B-Man, Killer, is Berenzo a nickname for  
11      Billy Arnold?

12      A.   Yes.

13      Q.   Any other contact that has the 8378 number?

14      A.   Corey Bailey's cell phone has this phone number  
15      saved in it under Berenzo.

16      Q.   Exhibit 11, Page 5.

17      A.   Line 46, mobile number (313)424-8378, contact name  
18      Berenzo.

19      Q.   For the 8378 number, did you search out the phone  
20      company for cell tower and subscriber information?

21      A.   Yes.

22      Q.   And so I will show you Government Exhibit 28 and  
23      28A.

24               Exhibit 28, is there the subscriber information  
25      that you received back?

1           **A.** Yes, it is.

2           **Q.** And 28A, what are we looking at here?

3           **A.** Copy of phone records.

4                   **MS. FINOCCHIARO:** Move for admission of  
5 Government Exhibits 28 and 28A.

6                   **THE COURT:** Any objection? Hearing none, the  
7 Court will receive both items.

8

9 **BY MS. FINOCCHIARO:**

10           **Q.** I think you previously discussed in the last slide  
11 the number 1934 for Billy Arnold?

12           **A.** Yes.

13           **Q.** What is the full number?

14           **A.** (212)470-1934.

15           **Q.** Does that number, other than Mr. Patterson's phone,  
16 appear in any other contact list?

17           **A.** This phone number was one of the devices that was  
18 seized at the time of the arrest for Billy Arnold on  
19 September 26, 2015.

20           **Q.** Okay.

21           **A.** Obviously, we saw it in Mr. Patterson's contact  
22 list. It was also stored as B-Man in Eugene Fisher's cell  
23 phone.

24           **Q.** Go to Exhibit 15, Page 3, Line 35. What do we see  
25 here?

1           **A.** Both of those mobile numbers, 1(212)470-3434 and  
2           1(212)470-1934, stored as contact name B-Man.

3           **Q.** For this number ending in 1934, did you reach out to  
4           the telephone company in order to get the subscriber and  
5           cell tower records?

6           **A.** Yes, I did.

7           **Q.** I will show you Government Exhibit 32. Is this the  
8           subscriber return for that number?

9           **A.** Yes.

10                   **MS. FINOCCHIARO:** Move for admission of  
11           Government Exhibit 32.

12                   **THE COURT:** Any objection? Hearing none, the  
13           Court will receive the item.

14

15 **BY MS. FINOCCHIARO:**

16           **Q.** And that third number that you were talking about  
17           for Billy Arnold that we saw, repeat that again for the  
18           jury.

19           **A.** (212)470-3434.

20           **Q.** As we just saw, it was in Mr. Fisher's cell phone as  
21           B-Man?

22           **A.** Correct.

23           **Q.** And in Mr. Patterson as Berenzo?

24           **A.** Yes, and this was another cell phone that was seized  
25           from Mr. Arnold when he was arrested on September 26,

1 2015.

2 Q. And did you get the subscriber and cell tower  
3 information for this number?

4 A. Yes.

5 Q. Showing you Government Exhibit 37, does this contain  
6 the information ending in 3434?

7 A. It does.

8 MS. FINOCCHIARO: Move for admission of  
9 Government Exhibit 37.

10 THE COURT: Any objection? Hearing none, the  
11 Court will receive the item.

12

13 BY MS. FINOCCHIARO:

14 Q. As part of your investigation, did you come across a  
15 number for James Robinson?

16 A. Yes, I did.

17 Q. What is the number for Mr. Robinson?

18 A. (313)948-8079.

19 Q. What was the source for that number?

20 A. It was seized at the time of his arrest on July 13,  
21 2016.

22 Q. And does it appear on any contact list?

23 A. It does. It appears on Robert Brown's list under  
24 the name Wick.

25 Q. Go to Exhibit 16, Page 22. At the top, what do we

1 see?

2 A. Mobile number (313)948-8079, contact name Wick.

3 Q. And Wick is a nickname for Mr. James Robinson?

4 A. Yes, it is.

5 Q. Other than Mr. Brown's phone, was it in any other  
6 contact list?

7 A. It also appeared in Corey Bailey's cell phone.

8 Q. Go to Exhibit 11, Page 17.

9 A. Mobile number (313)948-8079, contact name Wick.

10 Q. For this number ending in 8079 for Mr. Robinson, did  
11 you reach out to the phone company for the subscriber and  
12 cell tower information?

13 A. Yes.

14 Q. I will show you Exhibit 33 for identification. Is  
15 this Government Exhibit 33 that what we talked about?

16 A. Yes, it is.

17 MS. FINOCCHIARO: Move for admission of  
18 Government Exhibit 33.

19 THE COURT: All right. Any objection?  
20 Hearing none, the Court will receive the item.

21

22 BY MS. FINOCCHIARO:

23 Q. I believe I skipped over -- I want to return briefly  
24 to Mr. Fisher's number ending in 0167. Is there any other  
25 way besides what we talked about that that number was

1 associated?

2 **A.** Yes, I mentioned the police report in which he  
3 reported his electric meter being stolen. Not only did he  
4 provide the address of 18803 Lamont as his residence, he  
5 provided the cell phone number (313)728-0167 as a way to  
6 contact him.

7 **Q.** What was the date of that?

8 **A.** September 8, 2015.

9 **MS. FINOCCHIARO:** One moment, your Honor.

10 Your Honor, since Special Agent Ruiz has addressed  
11 the phone number information, the government would move  
12 for the admission of Government Exhibit 27, which was  
13 previously provided to defense, and would like to provide  
14 a copy to the jury.

15 **THE COURT:** All right. The Court will  
16 receive the item.

17  
18 **BY MS. FINOCCHIARO:**

19 **Q.** Just to be clear, Government Exhibit 27 is the  
20 information that we discussed about the phone numbers?

21 **A.** Yes, it is. That's correct.

22 **MS. FINOCCHIARO:** No further questions at  
23 this time.

24 **THE COURT:** Okay. You made reference to 466,  
25 contact list from Andrew Thomas, and I don't believe

1 that's been received in evidence. Are you asking that it  
2 be?

3 **MS. FINOCCHIARO:** Yes, under 104  
4 conditionally admitted. There will be a later time when  
5 that will be discussed in more detail.

6 **THE COURT:** All right. The Court will  
7 receive the item.

8 **DEFENDANT PORTER:** With all due respect --

9 **THE COURT:** No, sir. Not at this point, sir.  
10 If you would take a seat, we'll address it when --

11 **DEFENDANT PORTER:** I want the jury to hear  
12 me. Mr. Ruiz is not --

13 **MS. FINOCCHIARO:** Your Honor, if we could  
14 take a break?

15 **THE COURT:** Yes. Why don't you sit down for  
16 a minute, and we'll take a short break.

17  
18 (Jurors excused at 9:40 a.m.)  
19

20 **THE COURT:** You can take a seat.

21 **DEFENDANT PORTER:** Can I state my case  
22 please?

23 **THE COURT:** Well, go ahead.

24 **DEFENDANT PORTER:** I didn't meet Mr. Corey  
25 Bailey until I was incarcerated. So it's no way possible



1       that he can ever have a number in his phone under my name,  
2       under KP. My alias is KP. I'm Keithon Porter. That's  
3       for the record, and for the record, they never took a  
4       phone from me. I never had a 806 number in my name. They  
5       never took a 806 number from me.

6               The police officer that was here yesterday, he  
7       couldn't even provide no type of evidence that link me to  
8       a 806 number. He didn't have no phone. He didn't have no  
9       text records. They never had that phone from me. I don't  
10      know where that number comes from. And Ruiz is here  
11      saying that the 806 is my number. They can't even prove  
12      it. I guaranty he cannot prove it nowhere throughout this  
13      trial. They cannot bring in a 806 phone. He cannot bring  
14      a 806 number or any text messages that says Keithon Porter  
15      to that phone.

16             I don't know understand why the Court is allowing  
17      them to use that phone against me when it is not my phone.  
18      They showed no type of evidence or foundation to link me  
19      to that phone. I just want that on the record.

20             **THE COURT:** All right, sir. It is noted for  
21      the record. You should know at sidebar your attorney was  
22      describing some of the evidence that he will be using to  
23      challenge the testimony. That's what this process is all  
24      about. There's evidence that the government has that I'm  
25      sure others among the defendants also disagree with, and

1       that's why you have a lawyer.

2                   **DEFENDANT PORTER:** I have been incarcerated  
3 for two years, and I haven't seen a piece of evidence that  
4 could tie me to this phone yet.

5                   **THE COURT:** So that's why the defense  
6 attorney is here, because he has a chance to challenge  
7 and --

8                   **DEFENDANT PORTER:** I understand that, sir.

9                   **THE COURT:** -- and object to the evidence.  
10 If the evidence that is produced through that cross  
11 examination discredits the testimony, the jury will have  
12 the opportunity, and the Court may have the opportunity to  
13 weigh in.

14                   But the basic problem of hearing these complaints  
15 during the process is that, first of all, it is premature  
16 because there's going to be other evidence that you're  
17 using to discredit this information on cross examination,  
18 and it disrupts the flow of the case.

19                   So if in the future you have something that you  
20 feel has to absolutely be noted for the record, I will  
21 give you the opportunity when the jury is not here to do  
22 that because that's the only way. You will have a chance  
23 to testify if you wish also.

24                   **DEFENDANT PORTER:** Yes, sir. I just want it  
25 on the record because to my knowledge I'm not aware what's

1 going on at sidebar. I don't know what's going on over  
2 there. My lawyer can only speak to me so much. He can't  
3 speak what the prosecutor is saying. He can't tell me  
4 everything. I'm not aware what's going on over there.  
5 I'm only aware what's going on that I can hear right here,  
6 and I just wanted that on the record.

7 **THE COURT:** All right.

8 **DEFENDANT PORTER:** Thank you.

9 **THE COURT:** If you have another problem  
10 during the course of this, it has to be voiced outside the  
11 presence of the jury.

12 **DEFENDANT PORTER:** I understand that.

13 **MR. H. SCHARG:** Do I have to put on the  
14 record that I have to use restroom?

15 **THE COURT:** I guess we may as well take a --

16 **MR. H. SCHARG:** We're going to ask to take a  
17 break when Agent Jensen finishes his direct, a short  
18 break. Agent Jensen is the next witness, and we would ask  
19 for 10 or 15 minutes at that time.

20 **THE COURT:** Okay. All right. That's going  
21 to happen when?

22 **MS. FINOCCHIARO:** If there's no cross, right  
23 now.

24 **MR. H. SCHARG:** There's a little cross.

25 **MS. FINOCCHIARO:** After cross.

1                   **THE COURT:**   Hurry up.

2

3                   (Recess taken at 9:43 a.m.)

4

5                   (Proceedings with jury at 9:47 a.m.)

6

7                   **THE COURT:**   You can take a seat.

8                   All right.   Ms. Finocchiaro?

9                   **MS. FINOCCHIARO:**   No further questions.

10                  **THE COURT:**   Any cross examination?

11                  **MR. H. SCHARG:**   Yes.

12

13                                   **CROSS EXAMINATION**

14

15                  **BY MR. H. SCHARG:**

16

17                  **Q.**   Good morning, Agent Ruiz.

18                  **A.**   Good morning, sir.

19                  **Q.**   You obtained phone records from the subscribers of  
20                  certain phones during this investigation, correct?

21                  **A.**   I obtained it from the actual cell phone companies,  
22                  not subscribers.

23                  **Q.**   Okay.   From the providers?

24                  **A.**   That's correct.

25                  **Q.**   And it's fair to say there's two roads -- or two

1 ways in order to obtain those records from the providers,  
2 one is by subpoena and one by search warrant, correct?

3 A. That's not entirely correct.

4 Q. Correct me.

5 A. At the time that we were obtaining these cell phone  
6 records, the 2703, the court order was the way to obtain  
7 these records. The subpoenas will not get you cell tower  
8 information.

9 Q. You can obtain the records by court order?

10 A. Correct.

11 Q. Or by search warrant?

12 A. That was a not legal requirement.

13 Q. There was one way to obtain these?

14 A. Court order.

15 Q. Which is a pretty simple avenue, is that correct?

16 A. I believe the legal threshold is relevance.

17 Q. Okay. You obtained the records for (313)424-8378,  
18 and those were the phone records of the subscriber Billy  
19 Arnold?

20 A. That's correct.

21 Q. Do you recall when you submitted the order for these  
22 records?

23 A. Not off the top of my head.

24 Q. Give us a guesstimate. You're very sure and very  
25 definitive regarding all your testimony. Give us at least

1 an estimate as to when --

2 A. My estimation would be after September 26, 2015 when  
3 he was arrested with those cell phones in his possession.  
4 I probably did the court order request shortly thereafter.  
5 My guess would be in October of 2015.

6 Q. And you identified Exhibit 28 this morning?

7 A. I identified a lot of exhibits. I don't know what  
8 28 was.

9 Q. Is that the detail call record of Billy Arnold?

10 A. It may be.

11 Q. You don't remember what you testified to 10 minutes  
12 ago?

13 A. I don't remember the number. We went through a lot  
14 of exhibits already.

15 Q. I'm talking about within the last 10 minutes.

16 A. I'm telling you we went through nine numbers, which  
17 would have been nine different exhibits for those numbers  
18 alone. In addition to that, all of the cell phone contact  
19 lists would have been their own exhibit number. I don't  
20 remember all of the exhibit numbers.

21 Q. Do you recall identifying the call detail records of  
22 Billy Arnold for the phone (313)423 --

23 A. Yes, I do. I don't recall the exhibit number.

24 Q. Did you obtain a court order for (313)728-0167  
25 during your investigation?

1           **A.** Yes. I do not recall exhibit number for that.

2           **Q.** And there is a -- you were able to obtain the detail  
3 call records for Eugene Fisher for (313)728-0167?

4           **A.** That's correct.

5                   **MR. H. SCHARG:** No further questions.

6                   **THE COURT:** Thank you. Mr. Daly?

7

8                                   **CROSS EXAMINATION**

9

10          **BY MR. DALY:**

11

12           **Q.** Agent Ruiz, good morning.

13           **A.** Good morning.

14           **Q.** Is that the correct pronunciation of your name?

15           **A.** Ruiz.

16           **Q.** Ruiz?

17           **A.** Ruiz.

18           **Q.** I'm close?

19           **A.** Very close.

20           **Q.** Okay. You said that with regards to Corey Bailey,  
21 there was a specific number that you associated him with,  
22 is that correct?

23           **A.** That's correct.

24           **Q.** And one of the ways that you associated that number  
25 with him was based on an arrest on July 22, 2014?

1           A. That's correct.

2           Q. And that was the arrest at the Novara address  
3 involving the Detroit arson investigation that we heard  
4 about, right?

5           A. Yes, it is.

6           Q. And in that incident, Mr. Bailey was seen with a .40  
7 caliber, correct?

8           A. Yes.

9           Q. And Mr. Bailey was charged in federal court with  
10 possession of that .40 caliber, correct?

11          A. Yes, he was.

12          Q. Now there was another weapon that was seized there,  
13 and that was an assault weapon that was found in the white  
14 van in the driveway, correct?

15          A. That is also correct.

16          Q. And Mr. Bailey was not charged with possessing that  
17 weapon, correct?

18          A. He was not.

19          Q. Was not. Okay. Now since Mr. Bailey's arrest on  
20 July 22nd of 2014, has he remained in custody up until  
21 today?

22          A. Yes.

23          Q. He's never been released?

24          A. No, he has not.

25          Q. He is not free to roam around the country. He is



1 always incarcerated?

2 A. That's correct.

3 Q. You talked a little bit about the records that you  
4 obtained through court orders, the phone records, correct?

5 A. Yes.

6 Q. And we're going to have more testimony from another  
7 agent in detail about this?

8 A. Yes, you will.

9 Q. One of the things that you referred to, you used the  
10 abbreviation CDR?

11 A. I may have.

12 Q. Those are call detailed record?

13 A. That's correct.

14 Q. And then you mentioned on direct examination from  
15 the government lawyers that that information included  
16 dates, correct?

17 A. Yes.

18 Q. Incoming, outgoing calls, correct?

19 A. Yes.

20 Q. Times when calls were made?

21 A. Yes.

22 Q. When they started and ended, correct?

23 A. Yes.

24 Q. And those records do not indicate the content of the  
25 call in any way, shape or form?

1           A. They do not.

2           Q. And those records don't indicate who is making the  
3 call or receiving the call, correct?

4           A. That is also correct.

5           Q. You also mentioned text messages, that these records  
6 show that a text message may have been sent or received,  
7 correct?

8           A. Yes, again with no content.

9           Q. You mentioned that. There's no content on these  
10 records?

11          A. Right.

12          Q. All right. Now also the government lawyers were  
13 asking you questions, and they showed you some maps of  
14 what could be called crime scenes for certain shootings,  
15 is that correct or not?

16          A. The map that was shown today?

17          Q. Yes.

18          A. Only one, Duchess and Craft.

19          Q. One crime scene on that map, correct?

20          A. Correct.

21          Q. And you testified before about the July 14, 2014  
22 shooting of Neff or Mr. Page?

23          A. Yes.

24          Q. One of the things that you told us is that you were  
25 unable to determine a crime scene, that is, where the

1 shooting actually happened, correct?

2 A. That is also correct.

3 Q. So the best that we can say at this point is that  
4 the crime scene or the shooting occurred somewhere between  
5 the parole office at 5300 Lawton and Grand River and  
6 Oakman?

7 A. Yes, where the vehicle came to rest.

8 Q. Somewhere between there?

9 A. Yes.

10 Q. And we said that's short of 4 miles, ball park?

11 A. Right.

12 Q. Now as the agent in charge, you testified before the  
13 grand jury in this case a number of times, correct?

14 A. Yes.

15 Q. Okay. More than once, right?

16 A. Many more times.

17 Q. Many times. Okay. And just for background  
18 information, the grand jury is a group of citizens,  
19 correct?

20 A. Yes.

21 Q. And in the grand jury room, besides the grand jury  
22 citizens, there are witnesses who are called to testify,  
23 correct?

24 A. Yes.

25 Q. And before they testify there, they are sworn to

1 tell the truth, correct?

2 A. Yes.

3 Q. After they testify, they are always given an  
4 opportunity to change their testimony if they want to?  
5 That's general protocol, is that correct, at the end?

6 A. I don't know. I don't think I've ever changed.

7 Q. I'm not asking if you did, but the normal course of  
8 things, the witness testifies, and the U.S. Attorney will  
9 say, is there anything that you want to change about what  
10 you just testified. That's normal course, or you don't  
11 know?

12 A. I don't know. I'm not present when other witnesses  
13 are in the grand jury.

14 Q. You're not present. There's no judge present?

15 A. Correct.

16 Q. No defense lawyers present?

17 A. Correct.

18 Q. Defense lawyers don't get to object or cross examine  
19 witnesses at a grand jury, correct?

20 A. That's correct.

21 Q. Now because you testified a number of times, you  
22 probably can't tell the jury every day that you appeared  
23 before the grand jury?

24 A. I certainly cannot.

25 Q. If I told you December 16, 2015 was a day that you

1 appeared, does that sounds about right?

2 A. It may be.

3 MR. DALY: Your Honor, may I approach the  
4 witness?

5 THE COURT: Yes.

6 BY MR. DALY:

7 Q. I will hand you a cover sheet of a grand jury  
8 transcript.

9 A. Okay.

10 Q. It has your name on it, is that correct?

11 A. It sure does, and says December 16, 2015.

12 Q. And if you would turn to Page 28, and read to  
13 yourself the question and answer on Lines 12 through 13.  
14 Have you read that, sir?

15 A. I'm reading it. Yes.

16 Q. So you told us before you testified that you were  
17 sworn to tell the truth, correct?

18 A. Yes.

19 Q. And you did tell the truth, correct?

20 A. Yes.

21 Q. You never changed your testimony. You also added  
22 that, correct?

23 A. Yes.

24 Q. Were you asked this question, and did you give this  
25 answer under oath in front of the grand jury:

1 Question: What time is Djuan Page or Neff  
2 killed?

3 Answer: Let me take a quick look. It was at  
4 1:15 p.m.

5 Is that what you testified to before the grand  
6 jury?

7 A. That's what I testified to.

8 MR. DALY: Nothing further.

9 THE COURT: Thank you.

10 THE WITNESS: May I clarify something, sir?

11

12 CROSS EXAMINATION

13

14 BY MR. FEINBERG:

15

16 Q. Relating to the testimony that you gave concerning  
17 Mr. Brown's phone, did you get a court order for his  
18 records?

19 A. Yes, I did.

20 Q. You didn't think to get a search warrant?

21 A. I believe the legal requirement at the time to  
22 getting call detailed records was the 2703(d) court order.

23 Q. How do you know that?

24 A. I have been doing this job for eight years, plus  
25 that's been my training, and we go through the U.S.

1 Attorney's Office each time. I just don't take it to the  
2 court. It is reviewed by the attorney, and reviewed by  
3 magistrate, and it's either approved or denied, and served  
4 upon the cell phone company.

5 Q. Before you attempt to get a court order, you consult  
6 with the U.S. Attorney's Office?

7 A. Yes.

8 Q. And then you go to the magistrate and get --

9 A. Not me personally.

10 Q. They do it?

11 A. Yes.

12 Q. Okay. You testified concerning his contact list, do  
13 you remember that?

14 A. Yes.

15 Q. And you testified based on your examination of the  
16 court received records, court ordered records. How many  
17 contacts did you testify to that were on Mr. Brown's  
18 phone?

19 A. Today?

20 Q. Yes.

21 A. I think only three.

22 Q. In reviewing all of his records, how many contacts  
23 did he have total on his phone?

24 A. I don't know that number off the top of my head.

25 Q. Hundreds?

1           A.   Maybe.

2           Q.   And these three were the only ones that you  
3 testified to that were on his phone, Billy Arnold's and  
4 Corey Bailey and Mr. Patterson?

5           A.   These three are relevant to the number that we are  
6 discussing today.

7           Q.   People who you were investigating as to the Seven  
8 Mile Bloods?

9           A.   That's correct.

10          Q.   Whose phones that you had seized?

11          A.   That's correct. Not all of them, just the ones that  
12 are relevant to today. There are numerous other contacts  
13 of Seven Mile Bloods members.

14          Q.   And non-Seven Mile Bloods members?

15          A.   Yes.

16          Q.   Friends, family?

17          A.   Yes.

18          Q.   Not all of his friends were people who were  
19 connected to your investigation of the Seven Mile Bloods?

20          A.   That's true.

21          Q.   Other people that he grew up with?

22          A.   Quite possibly.

23          Q.   And according to your investigation, a lot of the  
24 people that you investigated as to being members of Seven  
25 Mile Bloods were friends that he grew up with, is that



1 correct?

2 A. And he grew up with some of these guys.

3 MR. FEINBERG: No further questions.

4 THE COURT: Thank you, Mr. Feinberg.

5  
6 CROSS EXAMINATION

7  
8 BY MR. MAGIDSON:

9  
10 Q. Good morning, Agent Ruiz.

11 A. Good morning.

12 Q. Hope I was able to pronounce your name correctly.

13 A. Very close.

14 Q. Okay. So as it relates to Mr. Shy's phone, based on  
15 your review of the records, he voluntarily turned over  
16 that phone, isn't that correct? He was asked when  
17 arrested, turned himself in at the probation department,  
18 and he was asked to give some phones, and he voluntarily  
19 produced those?

20 A. He produced a phone.

21 Q. Okay. And he voluntarily gave the phone number even  
22 before that to his -- to Bonnie Phillips, his probation  
23 officer, isn't that right?

24 A. Are you referring to the cell phone that he  
25 voluntarily gave to me?

1           Q. I'm talking about the phone that's the subject to  
2 this case.

3           A. Well, I don't want you to confuse anybody. The  
4 phone that he gave me did not have that telephone number.

5           Q. Right, but he was asked, either by you or another  
6 person involved in the investigation, asked him to produce  
7 phones, and he produced --

8           A. A phone.

9           Q. In fact, his grandmother brought a phone to the  
10 probation office, isn't that right?

11          A. Not to the probation office, but to court.

12          Q. Anyhow, he asked family members to locate various  
13 phones and bring them to either you or other people  
14 involved in the investigation?

15          A. That's correct.

16          Q. And he also had given this number, this number  
17 that's the subject of this case, to Bonnie Phillips, the  
18 probation officer, isn't that right?

19          A. I don't know if it was Bonnie or another probation  
20 agent, but yes, he provided it to the Michigan Department  
21 of Corrections.

22          Q. He was not hiding it or anything like that?

23          A. Not at that time.

24          Q. Well, at any time?

25          A. No.

1                   **MR. MAGIDSON:** I have nothing further.

2                   **THE COURT:** Thank you, Mr. Magidson.

3                   Mr. Scharg?

4                   **MR. S. SCHARG:** Thank you, Judge.

5

6                   **CROSS EXAMINATION**

7

8                   **BY MR. S. SCHARG:**

9

10                  **Q.** Good morning, Investigator Ruiz.

11                  **A.** Good morning.

12                  **Q.** As officer in charge of the case, you're only  
13 gathering reports from different individuals in your  
14 group?

15                  **A.** This was a very large case. It was multiple people  
16 working on it with me. I was responsible for some things  
17 as well as my partner.

18                  **Q.** Being the officer in charge, they have to report to  
19 you?

20                  **A.** Most of it goes through me.

21                  **Q.** And they prepare reports, and you have the chance  
22 review them before you submit them to the prosecutors?

23                  **A.** Usually, yes.

24                  **Q.** And in this case you told us this morning that you  
25 had the address of 20304 Dresden assigned to Mr. Keithon

1 Porter, correct?

2 A. He is associated with that address.

3 Q. When you say associated, you say he is associated  
4 because the Secretary of State indicated that he applied  
5 for a driver's license with that address on it?

6 A. In January 2012.

7 Q. And do you have a copy of that information with you  
8 to indicate that?

9 A. On my phone I have an email, but I don't have a  
10 physical copy.

11 Q. Has anything been presented to the prosecutor with  
12 the driver's license with that address on it?

13 A. Yes.

14 Q. They have it in their possession?

15 A. You have to ask them.

16 Q. Officer Ruiz, are you referring to a Michigan State  
17 Police profile and not Secretary of State, actually  
18 driver's license.

19 A. It says Secretary of State on there.

20 MR. S. SCHARG: May I approach the witness,  
21 your Honor?

22 THE COURT: Yes.

23 THE WITNESS: SOS file.

24

25 BY MR. S. SCHARG:

1 Q. That stands for Secretary of State?

2 A. Yes, sir.

3 Q. Okay. And through your investigation, it is also  
4 fair to say that yesterday when Officer Villerot testified  
5 from the City of Warren, undercover police officer, he had  
6 some documents that you reviewed as well?

7 A. That's correct.

8 Q. And is it fair to say that the address that was  
9 given or provided to the officers in Warren in the summer  
10 of 2015 was Mr. Porter's address as 12500 Stringham Court  
11 in Detroit? Do you recall seeing that in the documents  
12 that they provided to you for your review?

13 A. I think that might have been the address.

14 Q. May I show you this to see if it refreshes your  
15 memory?

16 A. Yes.

17 MR. S. SCHARG: May I approach the witness?

18 THE COURT: Yes.

19 THE WITNESS: Yes, I see it, 12500 Stringham  
20 Court, Detroit, Michigan.

21

22 BY MR. S. SCHARG:

23 Q. That's the address that the Warren Police Officers  
24 put on their documentation that Mr. Porter was residing at  
25 that address?

1           **A.** He must have provided that address.

2           **Q.** And when you received that information that Mr.  
3 Porter mentioned or some documents from the Secretary of  
4 State that indicated that he was at 20304 Dresden, did you  
5 ever go to that location during this investigation?

6           **A.** Yes, I have.

7           **Q.** And have you ever -- did you find any documents in  
8 that house that indicated --

9           **A.** As part of the search warrant or to review the  
10 address and look at what the structure looks like?

11          **Q.** So see what the structure looked like first?

12          **A.** I had driven by.

13          **Q.** Was it a vacant home or abandon home, or did it look  
14 like people were living there?

15          **A.** I've seen a lot of houses in Detroit. I've seen  
16 houses that look like they are vacant homes in which  
17 people live in. This looks like it could have been lived  
18 in.

19          **Q.** Did you see individuals -- I mean, when you first  
20 went to that location, were you there preparing to do a  
21 search warrant or surveillance?

22          **A.** Just surveillance.

23          **Q.** And did you see any individuals coming and going  
24 from that location?

25          **A.** I did not.

1           Q. Were there vehicles in the driveway when you were  
2 there?

3           A. I don't recall.

4           Q. And at some point you did do a search warrant at  
5 that location?

6           A. No.

7           Q. So at no point do you know with certainty whether  
8 Mr. Porter lived at that address?

9           A. I'm sorry?

10          Q. Do you have any documents or any physical evidence  
11 to show that he lived at that address?

12          A. All I got are several police reports that was  
13 associated with him at that address.

14          Q. I know there might be some association. Was there  
15 proof of residency from that location, any documents to  
16 show from Detroit Edison that he had electricity at that  
17 location, whether he had any gas bills, anything of that  
18 nature?

19          A. None that I was able to obtain.

20          Q. Okay. After finding out that he was given an  
21 address of 12500 Stringham Court in Detroit, did you ever  
22 go to that location?

23          A. No.

24          Q. And so you had no idea to determine whether or not  
25 he was actually living there?

1           A. No.

2           Q. And did you know that he was living there for the  
3 past 15 years?

4           A. I guess the other things would have been false  
5 information, right?

6           Q. I'm just asking if you know. Do you have any  
7 knowledge if he was living there for the past 15 years?

8           A. He was not living there when we executed a search  
9 warrant on Charest.

10          Q. But that address on Stringham Court, there was never  
11 a search warrant executed at that location, correct?

12          A. No.

13          Q. So you have nothing to contradict the fact that if  
14 he was living there for 15 years, you wouldn't have --

15          A. The search warrant executed at 19940 Charest would  
16 contradict that.

17          Q. And whose residence was that?

18          A. His mother's.

19          Q. Anyone else residing at that location besides his  
20 mother?

21          A. Well, Keithon Porter, a female. I don't recall if  
22 it was a sister or girlfriend or what. I think it was his  
23 girlfriend that was there.

24          Q. And did you do any search of the Stringham Court  
25 address to see if there was such an address?



1           A. No.

2           Q. You had no clue about that address at all?

3           A. I don't.

4           Q. During your investigation in this case, we saw on  
5 the first couple days of trial numerous Facebook pages and  
6 Instagrams, and I'm sure -- as I asked you the last time  
7 you testified, you look at many others as well, correct?

8           A. Correct.

9           Q. And is it fair to say that in none of the pictures  
10 that you observed, you indicated today that Corey Bailey  
11 had a contact name of KP in his phone list?

12          A. He did.

13          Q. And after all the hours and time you put into these  
14 Facebooks and Instagrams, not one did you ever see Corey  
15 Bailey with Keithon Porter, did you?

16          A. No, I don't believe so.

17          Q. And in fact, you don't even have reference to  
18 believe -- or you have no knowledge to believe to indicate  
19 that, that they didn't know each other until the time they  
20 were arrested in the case?

21          A. You mean Keithon Porter?

22          Q. Keithon Porter and Mr. Bailey?

23          A. Okay.

24          Q. Isn't that fair to say that you have no knowledge --  
25 or you can't -- there's no evidence to show -- to even

1 show that they had any relationship at all up until the  
2 time they were indicted in this case?

3 A. I wouldn't be able to say that.

4 Q. Have you ever checked the Secretary of State within  
5 the last five years to see whether Mr. Porter's I.D.  
6 matched the Stringham Court address?

7 A. I've seen other addresses, and yes, they've been  
8 within the last five years.

9 Q. For the Stringham Court?

10 A. I don't remember the exact address.

11 Q. And we heard testimony today that Mr. Bailey has  
12 been locked up since 2014, correct?

13 A. Yes, he last.

14 Q. And do you have any explanation from all of your  
15 investigation work how Mr. Porter's phone number was -- or  
16 that number that you said was 806-8037 happened to be in  
17 Mr. Bailey's phone?

18 A. Do I have an explanation?

19 Q. Yes, is there any explanation for that?

20 A. I assume he put it in there.

21 Q. That's the only explanation that you have for that?

22 A. Yes.

23 Q. Now on July 11th, Special Agent Ruiz, when you  
24 testified the last time, I asked you on cross examination  
25 whether or not a phone was ever recovered from Keithon

1 Porter with the number 806-0837 prior to November 2015,  
2 and your response was no, correct, off his person? Did  
3 you ever recover a phone with that number from him?

4 A. I never recovered a phone with that number.

5 Q. Is it fair to say that the first time that number  
6 ever came up that's associated to Mr. Porter is when the  
7 Warren Police Department recovered four phones at the time  
8 of his arrest in Warren?

9 A. No.

10 Q. When was the other time they would have had a phone  
11 with that number recovered from Mr. Porter?

12 A. That number was made known to me when there was a  
13 carjacking incident at 20304 Dresden, in which the victim  
14 Aaron Moon was shot. The female that was there with Aaron  
15 Moon at the time provided that as a contact number for  
16 Keithon Porter. She also provided that as a residence for  
17 Keithon Porter, and she identified a photo of Keithon  
18 Porter.

19 Q. Is she one of the witnesses on your witness list?

20 A. She's deceased.

21 Q. So there's no way to contradict or contest what  
22 you're saying?

23 A. That's correct.

24 Q. And, in fact, when you testified -- before we get  
25 into that, at no time is there any phone in your custody,

1 government's custody, that had 806-8037, is that correct?

2 A. As the actual phone number for the device?

3 Q. Yes.

4 A. No. As a contact saved in other cellular devices,  
5 yes.

6 Q. And it's fair to say that you did send away for  
7 phone records pertaining to that phone as to who the  
8 ownership or subscriber was?

9 A. Yes.

10 Q. And it's fair to say that you did get a response  
11 back as who the subscriber was?

12 A. Yes, I did.

13 Q. Do you know who this person's name was?

14 A. Not off the top of my head, but it's a female's name  
15 if I remember correctly.

16 Q. Does the name Biljohna Sevetski (sp) sound familiar?

17 A. Not at all.

18 Q. If the government provided me that information,  
19 would you disagree with that?

20 A. No, I would not.

21 Q. Obviously, it's your position that information has  
22 to be incorrect because you're saying that number belongs  
23 to Keithon Porter, correct?

24 A. In previous testimony, we showed that Jeffrey Adams'  
25 cell phone had the subscriber name Sammy Bull. So it's

1 not uncommon for people to use aliases when getting  
2 telephones.

3 Q. Do you know whether or not Sprint has certain  
4 requirements? That's a Sprint line, correct?

5 A. I don't recall if it was Sprint.

6 Q. And you do know that you recovered a phone with the  
7 phone number (313)476-5312 belonging to Mr. Porter?

8 A. Yes.

9 Q. And have you done a research into that phone at all?

10 A. Yes.

11 Q. And was he the subscriber of that line?

12 A. I don't recall off the top of my head. He provided  
13 that number to the Detroit homicide investigators himself.

14 Q. And it's fair to say that --

15 A. It may or may not have his name as the subscriber on  
16 it.

17 Q. Now you testified in another hearing this year  
18 before Judge Steeh, correct?

19 A. Yes, I have.

20 Q. And you testified in this hearing under oath like  
21 you're doing today?

22 A. Yes.

23 Q. And you were asked a number of questions like you  
24 are being asked today, correct?

25 A. I'm sure, yes.

1 Q. Do you recall somebody, the U.S. Attorney by the  
2 name Chris Graveline asking you questions at that hearing?

3 A. Yes, he asked many question.

4 Q. Do you recall him asking you the question of: Who  
5 the number -- who is the authorized person of  
6 (313)806-0837 for that phone?

7 A. I don't remember that question specifically, but if  
8 you have the testimony it may refresh my memory.

9 Q. Sure. Mr. Graveline on Page 95 from the  
10 February 12th hearing day of this year, 2018, before Judge  
11 Steeh.

12 A. Okay.

13 Q. He started asking you questions regarding peoples'  
14 phone numbers?

15 A. Yes.

16 Q. Question, Line 3: Did you see who was listed there  
17 as Cocaine in Mr. Arnold's cell phone?

18 Answer: I do.

19 What is the number there?

20 Answer was: (313)784-6729.

21 A. Okay.

22 Q. Is that correct?

23 A. Yes.

24 Q. And based upon your investigation, have you heard  
25 the nickname Cocaine associated with anyone?

1 Answer: Yes, Corey Bailey?

2 A. Yes.

3 Q. Next question: Did you reach out to Metro PCS and  
4 T-Mobile to get Mr. Bailey's phone number and have those  
5 marked as a government exhibit?

6 And your answer was: Yes, I did, and I believe  
7 they are.

8 A. Okay.

9 Q. So Mr. Graveline moved for admission of those  
10 exhibits.

11 A. Okay.

12 Q. Going on to Page 96, Mr. Graveline asked you: Do  
13 you see the phone number listed there (313)806-0837?

14 Your response was: I do.

15 That's true?

16 A. Yes.

17 Q. Question was asked by Mr. Graveline, the U.S.  
18 Attorney: Based upon your investigation, did you identify  
19 that phone number as being associated with someone?

20 Your answer was: Yes.

21 A. Yes.

22 Q. That's true?

23 A. Yes.

24 Q. Question: And who did you associate that with?

25 Answer: I believe this is Eugene Fisher's cell

1 phone number.

2 Did you reach out to Sprint and get their  
3 records for (313) 806-8037?

4 Answer was: Yes.

5 A. I remember that specifically now.

6 Q. Those were your answers?

7 A. It was. I was mistaken on that day.

8 Q. You were mistaken?

9 A. Yes.

10 Q. Did you tell Mr. Graveline that you were mistaken?

11 A. He reminded --

12 Q. I didn't finish my question.

13 A. I'm sorry.

14 Q. Did you inform Mr. Graveline on the date of that  
15 testimony that before you got off the witness stand that  
16 you were mistaken?

17 A. I did not.

18 MR. S. SCHARG: Judge, may I have one moment,  
19 please?

20 THE COURT: Yes.

21 MR. S. SCHARG: I have nothing further, your  
22 Honor.

23 THE COURT: Thank you, Mr. Scharg.

24 Any redirect?

25 MS. FINOCCHIARO: Yes, your Honor.



**REDIRECT EXAMINATION**

**BY MS. FINOCCHIARO:**

**Q.** Special Agent, I want to clarify some things.

When talking about subscriber information, names given to a phone company, can you explain to the jury, do you need a driver's license necessarily to subscribe to a phone number?

**A.** Not necessarily. Like I mentioned, people can use aliases. I've seen aliases that doesn't make any sense, like Mickey Mouse. We saw Sammy Bull previously when I testified, and there are those that may get a friend or family member to go to those providers that require identification to get a phone for them.

**Q.** We have talked a lot on cross about 2703(d) orders. I want to be clear. With a 2703(d) order, this is an order of the court, right?

**A.** That is correct.

**Q.** And the judge signs it?

**A.** Yes, they do.

**Q.** And so the judge determines whether the law has been met before signing the order to get the records?

**A.** That is correct.

**Q.** And you talked with Mr. Shy's counsel about phones

1       that he voluntarily gave up.

2               To be clear to the jury, the phone that was  
3 brought into court here, was that the one with the 6022  
4 number?

5       **A.** I don't think it was.

6       **Q.** But the 6022 number was provided in May of 2015 to  
7 probation?

8       **A.** Yes, it was.

9       **Q.** And you heard about your former hearing where you  
10 were asked the question about the 8037 number. You were  
11 mistaken. Please explain that.

12       **A.** At the time of that testimony, I didn't have my  
13 reference sheet like I do today. There's a lot of  
14 telephone numbers as way discussed that's associated with  
15 this case. When Mr. Graveline asked me that question, I  
16 thought I recognized that number. After that day's  
17 testimony, he reminded me that I was mistaken, and he  
18 informed me that we would clear that record up at another  
19 date.

20       **Q.** Just to be clear, that number, 0837, what's your  
21 investigation associated that number with?

22       **A.** With Keithon Porter, not Eugene Fisher.

23       **Q.** And there were some questions from defense counsel  
24 about July 14, 2014 --

25       **A.** Yes.

1       Q. -- and previous testimony that you gave for the  
2 grand jury. To be clear for the jury, when you testify  
3 for the grand jury, are you always testifying from your  
4 personal knowledge or are you using other sources of  
5 information?

6       A. You use many sources of information, police reports,  
7 interviews, information like court records that we might  
8 receive, witness and cooperator information, other police  
9 officers' knowledge and information that they share with  
10 us.

11       Q. When you gave the 1:15 number, was that from a  
12 source that you were looking at?

13       A. It must have been. I must have looked at something  
14 that said let me take a quick look, but the thing that I  
15 wanted to clarify --

16               MR. H. SCHARG: Objection. Narrative.

17  
18 BY MS. FINOCCHIARO:

19       Q. For the 1:15, can you explain where you got that  
20 time from that you gave to the grand jury for the Djuan  
21 Page shooting?

22       A. I must have looked at an exhibit of some sort.

23       Q. Why do you believe that?

24       A. Because I say in my testimony, let me take a quick  
25 look.

1 Q. You were reading off of something?

2 A. Yes.

3 Q. Now in this stage of the case and investigation, do  
4 you know 1:15 to be the time of the shooting, or are you  
5 aware of the time that Djuan Page was sent to the  
6 hospital?

7 A. If memory serves me right --

8 Q. If you don't recall, that's fine.

9 A. I thought it was 12:15, but he was not killed on  
10 that day.

11 Q. He was shot on that day, but died later?

12 A. Correct.

13 Q. Would it make sense that around 12:17 he arrived at  
14 hospital?

15 A. 12:17 is what we heard during the trial.

16 MS. FINOCCHIARO: One moment, your Honor.  
17 Nothing further.

18 THE COURT: All right. Thank you.

19 Thank you. You may step down.

20

21 (Witness excused.)

22

23 MS. FINOCCHIARO: Our next witnesses is  
24 Special Agent Jensen. It's my understanding from my  
25 co-counsel that his testimony will take some time. If we

1 could take a short break at this time to go through his  
2 testimony, because I believe that defense counsel would  
3 like a break once direct is over.

4 **THE COURT:** Well everybody all right?

5 **MS. FINOCCHIARO:** At this time the government  
6 calls Special Agent Joe Jensen.

7  
8 **J O S E P H J E N S E N**

9  
10 being first duly sworn by the Court to tell the truth, was  
11 examined and testified upon his oath as follows:

12  
13 **THE COURT:** We will have you begin by having  
14 you state your name, and spell your last name.

15 **THE WITNESS:** Joseph Richard Jensen,  
16 J-e-n-s-e-n.

17 **THE COURT:** You may proceed, Mr. Wigod.

18 **MR. WIGOD:** Thank you, your Honor.

19  
20 **DIRECT EXAMINATION**

21  
22 **BY MR. WIGOD:**

23  
24 **Q.** Special Agent Jensen, you're here to talk to us a  
25 bit about your review and certain opinions of cell tower

1 and cell phone numbers that you reviewed?

2 A. Yes.

3 Q. I want to talk to you about your background and your  
4 training.

5 A. Yes, sir.

6 Q. Can you tell the jury what it is that you currently  
7 do for a living?

8 A. I'm currently employed as a supervisor special agent  
9 with the public corruption unit at FBI headquarters.

10 Q. What's does that entail?

11 A. I am a program manager over a particular region of  
12 public corruption squads, and assist them with funding and  
13 policy, and then I also work on several initiatives with  
14 public corruption units.

15 Q. You work out of D.C.?

16 A. I work in D.C.

17 Q. How long have you had that assignment?

18 A. Since January of this year.

19 Q. And your assignment before your public corruption  
20 manager?

21 A. I was assigned to the Detroit field office of the  
22 FBI.

23 Q. What did you do with the Detroit field office of the  
24 FBI?

25 A. My last job was a member of the technical service

1 squad, and I provided cellular analysis support to the  
2 Detroit field office and state and local partners.

3 Q. All right. We will come back to that in a second.

4 Before you were on the technical service squad,  
5 what did you do?

6 A. I was an investigator special agent on the public  
7 corruption squad.

8 Q. How long did you do that?

9 A. Approximately four years.

10 Q. What did this entail?

11 A. Public corruption investigations of federal, state  
12 and local officials, as well as some other international  
13 human rights and human trafficking violations.

14 Q. And did you start your FBI career there?

15 A. No.

16 Q. Where did you start before that?

17 A. I was originally assigned out of the academy to the  
18 organized crime squad, and I did that for approximately  
19 two years, and I investigated La Costra Nostra  
20 investigations, Middle Eastern criminal enterprise  
21 investigations, cargo theft, major theft.

22 Q. What did you do before joining the FBI?

23 A. I was a full-time Illinois National Guard field  
24 artillery officer.

25 Q. How long did you did that for?

1           A. I've been in the guard reserve for 14 years now.

2           Q. I want to turn back now to your time with the  
3 technical services squad.

4           A. Yes.

5           Q. What was your duties with that squad?

6           A. I was assigned to the technical services squad  
7 because of my CAST and my cellular analysis survey team  
8 certification, and I was basically the point in contact  
9 for all the cellular analysis that was conducted in the  
10 Detroit area and other parts of Michigan, other parts of  
11 Ohio, and I did case consultations with special agents  
12 conducting investigations. I helped training. I did out  
13 reach, things of that nature. I was basically the primary  
14 point of contact.

15          Q. You mentioned CAST, and that stands for what again?

16          A. The cellular analysis survey team.

17          Q. What does that team do?

18          A. It's a team that's based out of FBI headquarters.  
19 There are field assets and national assets through the FBI  
20 in the United States, and they deal predominately with the  
21 historical analysis of call detail records, phone records.  
22 And CAST also reacts to terrorist events, terrorist  
23 attacks, and fugitives, and missing children, missing  
24 persons.

25          Q. You mentioned -- I believe you mentioned a



1 certification with CAST?

2 A. Yes.

3 Q. Are you certified with CAST?

4 A. Okay.

5 Q. You are certified to do what?

6 A. I am certified by the CAST unit in the FBI to  
7 testify on behalf of the FBI for these call detail  
8 analysis records.

9 Q. And can you explain to the jury what the process  
10 is -- or what the educational process is in order to  
11 obtain your CAST certification?

12 A. Sure. There are three phases -- there's basically  
13 four phases. So there's three sets of training, and then  
14 there's the on the job training.

15 So the first one is the basic CAST course. It's  
16 about a three or four day course, and it deals with the  
17 basics that you need know as an investigator, any  
18 investigator, to conduct these types this types of  
19 investigations, these types of analysis for your cases.  
20 It goes through things like what's called -- excuse me --  
21 call detail records are, where they come from, what kind  
22 of relevant they can provide, and it gives a general  
23 overview from the telephone provider, the cell phone  
24 provider themselves as to how their networks are set up.

25 After that, there's -- you want to be actively

1 engaged doing this type of analysis either in your cases  
2 or cases for colleagues, and then you go to an advance  
3 course, which is a week, and it goes into greater detail  
4 of cellular theory, more detail about the particular phone  
5 companies and the services they provide, and the way their  
6 records are maintained, and then you go to do more on the  
7 job training, and then there's the certification portion,  
8 which is a month long classroom instruction, and it goes  
9 into greater depth of all of these things that you've  
10 learned about engineering theory and greater detail about  
11 radio frequencies, what the cell phones are doing, how the  
12 cell phone networks are used, and you are told by the  
13 companies themselves. They come and discuss with you all  
14 the things that you need to know about their networks to  
15 conduct this analysis.

16 Q. When you say the companies, you are referring to  
17 what?

18 A. The cell phone providers, Sprint, Verizon, AT&T,  
19 Metro PCS once upon a time, T-Mobile, U.S. Cellular.

20 Q. You went through this process?

21 A. Yes.

22 Q. How long of a process is it that basically?

23 A. About 300 hours of training. I want to say it took  
24 me -- I went through the basic course -- I have to look at  
25 my C.V. -- but I think it was 2012, and I was certified in

1 2016.

2 Q. Everybody who goes through the class is certified?

3 A. Everybody who goes through the process can be  
4 certified if they pass the process.

5 Q. Not everybody passes?

6 A. That's correct.

7 Q. You did?

8 A. I did.

9 Q. And then so you're basically a -- with technical  
10 services working for CAST out of Detroit?

11 A. That's what I was doing.

12 Q. What services did you provide to other agents in  
13 Detroit as a CAST certified individual?

14 A. So there's basic analysis, somebody would approach  
15 me and say I have phone records. How does this help? Can  
16 you help me interpret these, and sometimes they would, a  
17 case agent, would ask me which phone records help my case,  
18 how they help my case, what do I do with them, how do  
19 obtain them, things like this. I was just a single point  
20 of contact for this type of program.

21 Q. Have you been an instructor on this topic?

22 A. Yes.

23 Q. In what situation?

24 A. So I have helped with a number of basic courses. As  
25 the point of contact in Michigan, I was able to provide

1       seven courses in the state of Michigan last year, and just  
2       teaching state and local officials that don't have the  
3       same resources as the FBI as to conduct this analysis  
4       their investigations.

5       Q.   Now you mentioned a couple of times CDR.

6       A.   Yes, sir.

7       Q.   What does that stand for?

8       A.   CDR is a call detailed record.

9       Q.   Can you explain for jury what a call detailed record  
10      is?

11      A.   Sure.  A call detailed record is basically an  
12      enhanced billing record.  Actually I haven't seen one for  
13      my phone, but we use to get billing records, and it would  
14      tell you the date of the call, the phone number that you  
15      called or one that called you.  It would have all of that  
16      information, how many minutes you used of your minutes,  
17      how much data you used.  That's a billing record.

18               A call detailed record is kind of an industry  
19      term for that billing record with cell tower information  
20      attached to it.  So it's kept over the normal course of  
21      business by cell phone providers because they use it to  
22      optimize their network, and through legal process, we are  
23      able to obtain those records, and that's what I analyze,  
24      the cellular provider's call detailed record.  That's the  
25      Excel spreadsheet that I look at.

1           **Q.** You mentioned cell data tower data is on there.

2           What do you mean by that?

3           **A.** So the cell tower -- the cell phone company have a  
4           network. You can think of it like a sprinkler system in  
5           your yard, and they set up towers in various places and  
6           they try to optimize it as best they can. Well, when  
7           everybody is walking around making phone calls, they want  
8           to make sure they are providing the best service where it  
9           needs to go the most. So they track what cell tower that  
10          you use or I use when I make those phone calls, and they  
11          are kept by them to help optimize the record. So the  
12          phone call that you made, just like the billing record,  
13          who you called, time and date, amount of time that you  
14          spent on the phone, and the tower it is connected to is  
15          the call detailed record.

16          **Q.** So included in the call detailed record is the  
17          information concerning which tower the phone is connected  
18          to, is that correct?

19          **A.** Correct.

20          **Q.** Now you mentioned these records are kept in the  
21          ordinary course of business for the phone company to  
22          optimize their network. This is not something that the  
23          phone company is making for law enforcement?

24          **A.** They are producing records for law enforcement, but  
25          all of this information is engineering information that

1       they would create it any way.

2           Q.   You are using their records for a different purpose?

3           A.   Yes.

4           Q.   Have you testified in court regarding as a CAST  
5 member before?

6           A.   Yes.

7           Q.   Approximately how many times?

8           A.   Approximately a dozen times.

9           Q.   Have you testified in federal court?

10          A.   Yes.

11          Q.   State court as well?

12          A.   Yes.

13          Q.   Now you're here obviously in a criminal trial. Have  
14 you seen other uses, or have you used these called detail  
15 record in context outside of criminal prosecution?

16          A.   Like what?

17          Q.   Like --

18          A.   Outside of criminal prosecution, such as during an  
19 investigation or do you mean civilly?

20          Q.   For example, a missing child, missing person?

21          A.   Yes, I have used call detailed record analysis for  
22 cases that have not ended in criminal prosecution, and I  
23 have also used it in exigent circumstances. So if there  
24 is a missing child or a missing person, I would get called  
25 out and provide expertise for this particular topic, not

1 really overly concerned about a courtroom setting. You  
2 look at the records and try to find somebody.

3 Q. That's been successful in the past?

4 A. Yes, sir.

5 Q. Have you used call detailed records to exclude  
6 suspects for a crime?

7 A. Yes.

8 Q. Basically this person was not at that location or --

9 A. Right. So I mean, not every investigator knows  
10 necessarily what they are looking for. So after they give  
11 me call detailed records, they will say, here's the dates  
12 and times of a particular crime. Can you check these  
13 records? I think it is this the phone associated with  
14 somebody that might be involved, and I have told him or  
15 her, the phone doesn't give me any connection that this  
16 person was in the area, or this phone was somewhere else.

17 Q. Can you explain for purposes of your analysis the  
18 kind of the interaction or relationship between the  
19 handset cell phone and the cell tower and further the  
20 network?

21 MR. H. SCHARG: Right now, he's getting into  
22 expert testimony. He has not moved to qualify him as an  
23 expert yet. Are you at some point going to move to  
24 qualify him as an expert?

25 MR. WIGOD: May we approach?

1 (Sidebar conference on the record.)

2

3 **MR. WIGOD:** The proper procedure is to  
4 continue with the questioning. If you have an objection  
5 as to his qualification, it is to be made at sidebar.  
6 Case law says this court should not say that a witness is  
7 an expert in front of the jury.

8 **MR. H. SCHARG:** I'm sorry. Qualified to give  
9 opinion testimony.

10 **MR. BILKOVIC:** Yeah, but the jury is not  
11 suppose to know that. The Court is not suppose to put any  
12 emphasis on his expertise. It is reversible error.

13 **MR. WIGOD:** You should not declare him as an  
14 expert because otherwise --

15 **MR. H. SCHARG:** I misspoke, and he's just  
16 going to be giving opinion testimony.

17 **THE COURT:** So you will withdraw?

18 **MR. H. SCHARG:** I will withdraw the  
19 objection, but I still have some questions before he gives  
20 testimony.

21 **MR. DALY:** If Henry wants to do some  
22 questioning on his qualifications, that's fine, but the  
23 government is right. You're not to indicate that he is an  
24 expert.

25 **MR. H. SCHARG:** It was opinion testimony.



1 I'm sorry. It's opinion testimony. I will withdraw.

2 **THE COURT:** You're asking to do some voir  
3 dire?

4 **MR. H. SCHARG:** Yes.

5

6 (Sidebar conference concluded.)

7

8 **THE COURT:** The objection is withdrawn, and  
9 you will Mr. Scharg conduct some voir dire?

10 **MR. H. SCHARG:** Yes.

11

12 **VOIR DIRE EXAMINATION**

13

14 **BY MR. H. SCHARG:**

15

16 **Q.** Good morning, Agent Jensen.

17 **A.** Good morning.

18 **Q.** Let me go back through some of the process testimony  
19 that you gave in terms of your curriculum vitae.

20 You graduated from college from Albany, New York  
21 with a Liberal Arts degree in 2008?

22 **A.** Liberal studies, yes.

23 **Q.** In terms of your background, did you have any major  
24 or minor training in the area of science, engineering or  
25 mathematics?

1           A. No, sir.

2           Q. You have a masters degree?

3           A. Yes, sir.

4           Q. In what field?

5           A. A masters in management in organizational  
6 leadership.

7           Q. Those have no bearing on the fields of science,  
8 engineering or mathematics either?

9           A. Yes, sir.

10          Q. Now you also testified that you have given previous  
11 courtroom testimony in the field of cellular phone  
12 analysis in different courts?

13          A. Yes, sir, that's correct.

14          Q. And you listed the 38th District Court in Monroe,  
15 Michigan?

16          A. Yes, sir.

17          Q. The 3rd Judicial Circuit in Detroit, Michigan?

18          A. Yes.

19          Q. The Macomb -- 16th Circuit Court in Macomb?

20          A. Yes.

21          Q. And the U.S. District Court for the Eastern District  
22 of Michigan?

23          A. Yes, sir.

24          Q. You testified that you've given this opinion  
25 testimony on approximately 12 occasions?

1           **A.** Yes, sir. I don't know if you have an updated C.V.,  
2 but I would also add Fulton County, Ohio. I don't know if  
3 you have that on there.

4           **Q.** Was that recently?

5           **A.** Probably this year.

6           **Q.** How many times have you provided testimony in this  
7 field in the Eastern District of Michigan of the 12 or 13  
8 times?

9           **A.** I would have to look at the sheet. I would say  
10 about five or six. Just about half, sir.

11          **Q.** And have you written any publications, papers in  
12 this area in this field? Other than lecturing to  
13 co-agents in other law enforcement, have you ever written  
14 any articles that have been published?

15          **A.** If you do not count the exhibits, then no.

16          **Q.** You got your certification in 2016?

17          **A.** Yes, sir.

18          **Q.** And you were transferred or promoted to a position  
19 in Washington D.C. in early 2018?

20          **A.** January 2018.

21          **Q.** All of your testimony and all of your consultation  
22 have been in a period of a year and a half?

23          **A.** As a CAST certified person. I was doing  
24 consultation before that, just not as certified.

25          **Q.** And is it fair to say you usually work with case

1 agents in consultation?

2 A. Case agents more broadly, state and local  
3 investigators as well.

4 Q. Besides this case, have you ever worked with Agent  
5 Ruiz before?

6 A. With call detailed record analysis?

7 Q. Yes.

8 A. Yes.

9 Q. And on how many occasions?

10 A. I'm not really sure how many call detailed records I  
11 have reviewed for him. If I can speak more broadly to  
12 that, he's on a -- he was on a squad where violence crimes  
13 and criminal activity of that nature was more of a  
14 customer I would say for this sort of analysis than say  
15 public corruption or counterespionage. So I know that for  
16 Special Agent Ruiz -- or Supervisor Special Agent Ruiz  
17 I've worked fugitive cases and things of that nature as  
18 well.

19 Q. Do you know what the question was?

20 A. Can you say it again, sir?

21 Q. The question is -- the question was, have you ever  
22 worked with Agent Ruiz before?

23 A. Yes.

24 Q. You testified that there's four phases to this  
25 certification, meaning you have to do the certification.

1 There is also on the job training, correct?

2 A. The on the job training leads up to the  
3 certification.

4 Q. Did you work under the mentorship of another agent  
5 at any point in time?

6 A. There were my instructors from the CAST  
7 certification process, and there was also a CAST agent in  
8 Detroit that assisted me, yes, sir.

9 Q. And was there an agent that reviewed your findings  
10 on the reports that you analyzed, signed off? Has anyone  
11 signed off on this case? Anyone review your mapping and  
12 your results and signed off on this?

13 A. Yes.

14 Q. Who was that?

15 A. So the original submission of this was certified by  
16 Bastian Freud out of St. Louis, and the additional part  
17 for this separate trial was peer reviewed by S.A. Matt  
18 Wilder out of Baltimore.

19 Q. You're talking about organizations. Was there an  
20 agent out of this field office or another field office  
21 that signed off on your -- reviewed your work and did peer  
22 review?

23 A. Yes, Special Agent Bastian Freud from St. Louis.  
24 Those are both CAST certified individuals.

25 Q. In regards to the work that you have done in terms

1 of mapping, is it fair to say that you have to rely on the  
2 agents that you worked with to give you the information  
3 regarding -- facts regarding an offense, correct?

4 A. Yes.

5 Q. Regarding dates and times?

6 A. Yes, sir.

7 Q. Locations?

8 A. Yes.

9 Q. And cell phone records, is that correct?

10 A. Yes.

11 Q. Okay. And you take the information and you download  
12 or uploaded it into a special system that kicks out the  
13 results?

14 A. That's one of the steps, yes, sir.

15 Q. And there's a reference to a software called  
16 Penlink?

17 A. No.

18 Q. There's not a software called Penlink?

19 A. Yes, sir.

20 Q. And is that the software that you use in your field?

21 A. No.

22 Q. What software do you use?

23 A. It's called ISPA.

24 Q. Pardon me?

25 A. ISPA, and it's created by a company named Gladiator.

1 There's also another piece of software called CASTvis.  
2 That's kind of a FBI internal product. You can also use  
3 Microsoft Streets and Trips, and you can do a lot of this  
4 analysis through Excel.

5 Q. Before you had the software, how was the mapping  
6 done?

7 A. Good old days. So you looked at the detailed  
8 spreadsheets, and you would open like Streets and Trips,  
9 and draw the sectors by hand and do the analysis.

10 Q. With rulers and all of those mechanical pencils?

11 A. I mean, when I started it was still electronic.

12 Q. Have you ever gone to old school to map -- to do the  
13 mapping to corroborate or verify results of software that  
14 you used?

15 A. Can you describe old school?

16 Q. The old school was the system before you had the  
17 software mapping, as you said, going through the detail  
18 call records and mapping it out by hand.

19 A. Well, I can't remember too many instances of drawing  
20 something out by hand. You can draw by hand  
21 electronically. So I have done it old school if that's  
22 what you consider old school.

23 Q. Finally, you talked about situations where you were  
24 able to exclude suspects?

25 A. Yes, sir.

1 Q. And, in fact, sometimes Case Agent Ruiz would come  
2 to you with the information for the mapping, correct?

3 A. Yes.

4 Q. And he would give you again the detail call record?

5 A. Yes, sir.

6 Q. It gives you the place, date and time, and he would  
7 ask you to map it out?

8 A. Yes.

9 Q. And is there a time where you went to Agent Ruiz and  
10 said, well we have to exclude this individual because he  
11 was not in that sector or that place -- excuse me -- not  
12 him, but the phone was not in that place or sector at that  
13 time?

14 A. You mean him specifically?

15 Q. Yes.

16 A. I don't remember if I said that.

17 Q. You don't recall giving him that type of information  
18 regarding exclusion?

19 A. I don't think so. I might have.

20 Q. And, in fact, just finally, when you do your  
21 mapping, you're not mapping where a person is. You're  
22 trying to map where a phone is, is that correct?

23 A. That's correct.

24 Q. It doesn't tell you who was using the phone?

25 A. Correct.



1           Q. And it doesn't tell you because these are historical  
2 records, correct? They can't tell you exactly and  
3 pinpoint where a phone was, correct? It can only put it  
4 in a sector?

5           A. In a sector.

6           Q. And sometimes that information is not reliable  
7 either, correct?

8           A. I wouldn't say that.

9           Q. Only because sometimes because of the -- if the --  
10 if there's a lot of traffic on the phones, a phone could  
11 be kicked from one sector to another, correct?

12          A. It can, but that's not what's in the call detailed  
13 record.

14                   **MR. H. SCHARG:** No further questions.

15                   **THE COURT:** We're going to take a break at  
16 this point.

17

18                   (Recess taken at 11:02 a.m.)

19

20                   (Back on the record at 11:28 a.m.)

21

22                   (Jury in at 11:28 a.m.)

23

24                   **THE COURT:** All right, folks, you can take a  
25 seat.

1 Mr. Wigod, you may continue.

2 MR. WIGOD: Thank you, Your Honor.

3 BY MR. WIGOD:

4 Q. Special Agent Jensen, I think we left off where you  
5 were going to discuss the operation or the relationship or  
6 interaction between the handset/cell phone, the cell tower  
7 and the network.

8 A. Okay, sir.

9 Q. Can you please do that for us.

10 A. Sure. When your phone is on in your pocket and, you  
11 know, you are not engaged in a phone call or sending a  
12 text message, that phone is in your pocket constantly  
13 searching for the best, clearest signal that it can get on  
14 the particular provider. So it's scanning all the  
15 different cell towers in that -- I'll keep using the  
16 analogy the sprinkler system -- to look for the best one.  
17 You know, if you have a Verizon phone, Verizon wants that  
18 to happen so that you have the best service, so you don't  
19 have dropped calls, and things like that.

20 So it creates a list. We call it racking and  
21 stacking. And whenever you take that phone out to  
22 activate it and call home or check in or something like  
23 that, the phone picks the tower on the top of that list,  
24 connects with it, and you have your phone call or text  
25 message or things like that. So that's what your phone is

1 constantly doing all the time.

2 Q. And the connection between the phone and the tower  
3 is reflected in the call detail record?

4 A. Right. That event goes to your billing records.  
5 It's the thing that when it's -- excuse me, let me back  
6 up. When the phone is scanning, that's not, you are not  
7 using the Verizon service except to have it available if  
8 you need it, right? So when you make that phone call,  
9 that's when Verizon wants to start billing you for the  
10 minutes that you're using and the space you are taking up  
11 on their tower. So it's reflected in the billing records,  
12 and again, the call detail records also includes the tower  
13 information so ...

14 Q. It doesn't include the scanning information?

15 A. Correct.

16 Q. And I just want to make sure we're all on the same  
17 page. It's not as if we have records of constant 24/7  
18 tracking of where the phone is. It's only when the phone  
19 connects to the tower?

20 A. The call detail records are only, yeah, they are  
21 only when the phone picks a tower and has an event.

22 Q. Okay. And, based on your experience, the best,  
23 clearest signal is in the vicinity of a tower?

24 A. Could you explain "vicinity of a tower," what do you  
25 mean by that?

1 Q. In proximity to the tower.

2 A. Well, the best, clearest -- the phone is looking for  
3 the best, clearest signal, and so it could, kind of  
4 irrespective of distance, it could just pick -- it picks  
5 the one that it sees the clearest.

6 Q. The best, the clearest signal, the phone picks that?

7 A. Correct. The phone picks the first dance partner,  
8 yes.

9 Q. All right. Now, you spoke with Agent Ruiz on this  
10 case?

11 A. Yes.

12 Q. And he asked you to basically take a look at some  
13 call detail records that he had obtained in the course of  
14 his investigation?

15 A. That's correct.

16 Q. And you did that for him?

17 A. Yes, sir.

18 Q. Okay. And did you prepare a report outlining your  
19 findings?

20 A. I did.

21 Q. And that's basically a visualization of certain  
22 phone numbers and their relationship with the cell towers?

23 A. Correct.

24 Q. Showing you what's been marked as Government's  
25 Proposed Exhibit Number 36, can you just take a look at

1 that and tell us what that is, please.

2 A. So this is my Cast report.

3 Q. And this is a report that you prepared for this  
4 case?

5 A. Yes, sir.

6 MR. WIGOD: Your Honor, at this time I would  
7 move for admission of Government's Proposed Exhibit  
8 Number 36.

9 THE COURT: Any objection?

10 Hearing none, the Court will receive the item.

11 MR. WIGOD: Can we publish 36, please. Next  
12 page.

13 BY MR. WIGOD:

14 Q. Now, Special Agent Jensen, up on the screen is  
15 Page 3 of the exhibit, 36. Are these the phone records  
16 that you had an opportunity -- or are these the phone  
17 numbers that you had an opportunity to review records for?

18 A. I reviewed a lot of phone numbers. These are the  
19 ones that are in the exhibit.

20 Q. Okay, all right. So there is further, further  
21 diagrams as it pertains to these numbers that are  
22 reflected on the screen here?

23 A. Yes, sir.

24 Q. I believe there are eight numbers up there, if my  
25 math is right?

1           A. Yes.

2           Q. Okay. And we have previously heard testimony as far  
3 as -- you personally have no idea whose phone numbers  
4 these are associated with?

5           A. I may know some just from talking with the case  
6 agents but ...

7           Q. Firsthand knowledge, I'm talking about.

8           A. Correct.

9           Q. Now, some of the phone numbers you have the provider  
10 or all of them you have the provider next to them; is that  
11 right?

12          A. Yes.

13          Q. Some of them you have multiple providers?

14          A. Correct.

15          Q. The top one, Metro PCS and T-Mobile, why would there  
16 be two providers for that number?

17          A. There could be a couple of reasons. Metro PCS  
18 merged with T-Mobile in 2013 so depending on -- 2015. So  
19 depending on when the records were available, like if  
20 somebody, if a case agent gets one batch of records for  
21 let's just say 2011 and the investigation goes on and they  
22 get another bunch of records for 2016, it may have never  
23 been ported, but in 2011 they were Metro PCS records and  
24 then in 2016 the formatting is a T-Mobile record.

25          Q. Because of the merger?

1       **A.** That's one of the possible reasons, because of the  
2 merger.

3       **Q.** And you mentioned porting as well?

4       **A.** Porting. So if you take your number and you find  
5 that ATT was going to provide you a better price and  
6 better service, you can bring your cell phone number with  
7 you. And so where you had Verizon, for example, you may  
8 now have ATT and so your old records would be Verizon  
9 records, in their format, because they are owned by  
10 Verizon and the ATT records would be in a different  
11 format.

12       **Q.** Okay. You mentioned that this, part of the process  
13 of creating this report is a peer review process?

14       **A.** Yes.

15       **Q.** Basically somebody else who is Cast certified looks  
16 at your findings to make sure they are accurate. Is  
17 that --

18       **A.** Correct.

19       **Q.** Okay. We have mentioned a bunch of times now "cell  
20 tower" and I think defense counsel at times mentioned  
21 "sectors." Can you explain what we're looking at in this  
22 slide?

23       **A.** Sure. The left picture is a traditional cell phone  
24 tower. You can see the antennas on it, and that's where  
25 the radio frequency or the energy comes from.

1           And then, as defense counsel was stating,  
2           sectors. So typically, though not always, a cell phone  
3           tower is broken into three sectors, sometimes six,  
4           sometimes just one. But this is -- the picture on the  
5           left is depicting a three-sector tower. You can see how  
6           they are labeled one, two, three, and there's a little  
7           arrow in the middle, a little one in the middle of each,  
8           and if you can see it, it says zero on top --

9           **Q.** Actually I can zoom in on that for you?

10          **A.** See how it says 0 on top and then 120 and 240.  
11          That's in a 360-degree circle, and that is the direction  
12          that the energy is going off of the antenna. So when we  
13          say "sector," there is an azimuth and it's generally  
14          120 degrees of energy going in a particular direction.

15                 And so most phone companies will give you the  
16          tower, which is the group of antennae, and then the  
17          sector, which is one of the three sides that the energy  
18          is -- that's where the phone connected so ...

19          **Q.** So just to make sure we are all on the same page and  
20          we understand, so you get information as far as which  
21          tower, like, for example, the thing we see on the left  
22          here, which tower the phone connects to?

23          **A.** Correct.

24          **Q.** And then you also have information in the same  
25          records from the phone company as to which sector within



1 the tower the phone is connecting to?

2 A. That's correct.

3 Q. Okay. And along with that information you have  
4 basically the date and time that that event occurs, the  
5 connection to the tower?

6 A. Yes, sir.

7 Q. Okay. Now, you had an opportunity to review several  
8 different events and the phone numbers associated with  
9 those events; is that fair to say?

10 A. Yes, sir.

11 Q. Okay. Just describe generally -- we'll go through  
12 it in more detail -- what we're looking at on Page 5 of  
13 this exhibit.

14 A. Okay. Do you mind if I use the pointer and --

15 Q. Not at all.

16 THE WITNESS: Sir, do you mind?

17 THE COURT: Yes. Yes, you may.

18 THE WITNESS: The rest of the exhibits look a  
19 little bit like this.

20 Just to orient you to what everything is. So we  
21 have the phone number that was analyzed, the particular  
22 date and times of this particular analysis.

23 BY MR. WIGOD:

24 Q. I'm going to highlight portions as we go through.  
25 So this is the phone number that you analyzed?

1           A. Yes, sir.

2           Q. And when we say "analyzed," meaning you looked at  
3 the call detail records for this phone number for a  
4 certain time range?

5           A. Yes, sir.

6           Q. Okay.

7           A. And so these are -- this is essentially a picture of  
8 an Excel spreadsheet. So this address was given to me by  
9 the investigators as something of importance to them for  
10 their investigation, and these are the results.

11                   So you can see the pink kind of triangle-looking  
12 thing there. That's one of the sectors. So that's  
13 depicting the energy coming off of the antenna and the  
14 phone using the energy from that sector. You can see  
15 one more down here and one more down here.

16                   Up top in this blue box here, CID is cell  
17 identifier. It's the name of the tower, and I'm given  
18 that name by the cell phone providers. And then some of  
19 them, this is the sector.

20                   And then down here is the date, July 14th, 2014,  
21 and these are all the events that we talked about. These  
22 are all the events that would show up on your billing  
23 records that occurred on this tower at these times.

24           Q. Okay.

25           A. And then one other thing that I'll just point you

1 to, they change color throughout the report depending upon  
2 the provider, but these red dots here are all the cell  
3 towers of this particular provider, in this case it is  
4 Verizon, so ...

5 Q. Okay. You can sit down. Can you see the screen  
6 from there if I ask you some questions on follow-up?

7 A. I can, yes, sir.

8 Q. All right. So let's back up. These red dots all  
9 over the screen are towers?

10 A. Yes, sir.

11 Q. Okay. And these are not all the towers in the city  
12 of Detroit, they are only the towers for the provider for  
13 this phone number?

14 A. Right, and on July 14th, 2014.

15 Q. So the provider -- so these are towers on this date  
16 and time from Verizon?

17 A. Yes.

18 Q. Sprint may have towers in different locations,  
19 T-Mobile may have towers in different locations?

20 A. That's correct.

21 Q. And you get the location of the tower from where?

22 A. From the tower lists that the providers give us.

23 Q. Okay. So Verizon tells you where the tower is?

24 A. Yes.

25 Q. And let's go back for a minute to what you have

1 here. You know, let me back up even more. So you have  
2 three boxes on this screen, one, two, three?

3 A. Yes.

4 Q. Those boxes relate to the pink angles, so this  
5 one goes with this one, this one with goes with this one,  
6 and this one goes with this one?

7 A. Yes, sir. Those are the sectors.

8 Q. Okay. So it goes with a tower and a sector. So  
9 this box goes with this tower and this sector, this box  
10 goes with this tower and this sector, this box goes with  
11 this tower and this sector?

12 A. Yes, sir.

13 Q. Okay. And the towers have names?

14 A. They do, yes, sir.

15 Q. And those names are provided by the phone company?

16 A. Yes, sir.

17 Q. So what we're looking at here, the name of the tower  
18 in this case is what?

19 A. 210.

20 Q. And the sector?

21 A. 3.

22 Q. Okay. And then the same for -- this tower would be  
23 tower?

24 A. 572.

25 Q. Sector?

1           A. 1.

2           Q. And unfortunately they don't make this terribly  
3 simple for us, but different companies have different  
4 naming configurations for their towers?

5           A. They do, yes.

6           Q. Okay. Can you explain for -- so obviously this is  
7 downtown Detroit, you see?

8           A. Yes, sir.

9           Q. And there seems to be more red dots in the downtown  
10 area than there does as you get further away from  
11 downtown?

12          A. Yes, sir.

13          Q. Can you explain that for us?

14          A. Sure. To use the analogy again, if you, if you look  
15 at this slide like a sprinkler system, you build sprinkler  
16 systems based on logical use of water to get the best  
17 coverage, right? So you wouldn't just put one tower, or,  
18 excuse me, one sprinkler in the middle of your yard and  
19 hope that it gets all of your grass and your bushes and in  
20 the back and things like that. You build the system so  
21 that if there's more flowers over here it gets more water;  
22 if there's less over here, maybe a big grass spot, it gets  
23 maybe a little bit less water.

24                 So in urban areas there are more people and  
25 there are more obstructions, in some cases there are more

1 obstructions, so they need to build more cell phone towers  
2 so you don't lose coverage. Cell phone towers are about  
3 \$250,000 each to build so the cell phone providers want to  
4 be very logical about who and where -- or not who, but  
5 where they put them to provide coverage. They don't want  
6 to just stack five towers in one area that doesn't need  
7 five towers. So what you see is generally less coverage  
8 in, say, the countryside and more coverage in a city where  
9 there are more people and it's -- they do it pretty  
10 logically so that they make the most money.

11 Q. They don't want to spend money they don't have to?

12 A. That's right.

13 Q. So basically more people downtown, more towers or  
14 antennas?

15 A. That's right, sir.

16 Q. Okay. Now, going back to these boxes for a minute,  
17 these are all -- all these numbers on the left -- the  
18 numbers on the left are what? Let me back up. When I say  
19 the left, the far left, the 313-424-8378.

20 A. Right. So that's the phone number being depicted  
21 here.

22 Q. Okay. And then next to the phone number is what?

23 A. The time.

24 Q. The time of what?

25 A. Of the event that occurred.

1 Q. Now, so at least what's depicted on your slides is  
2 nothing about what number -- what the specific event is,  
3 meaning an outgoing call, an incoming call, a text  
4 message, things of that nature?

5 A. That's correct.

6 Q. Okay. So these are basically all some sort of  
7 billable event, which would be incoming, outgoing, text  
8 message for this phone number at these times?

9 A. Yes, sir.

10 Q. Okay. And that's true of basically all of your  
11 boxes here?

12 A. Correct.

13 Q. This is all the number that you looked at and then  
14 the times with the tower, and the same on the bottom here?

15 A. Correct.

16 Q. If we look at the -- there's three towers. This is  
17 the -- 5300 Lawton is a location that Agent Ruiz gave you  
18 that was of significance to the investigation?

19 A. Yes.

20 Q. That's why you have that?

21 A. Correct.

22 Q. Okay. And this tower is in proximity to the 5300  
23 Lawton address?

24 A. Yes.

25 Q. So between 9:59 a.m. -- this is a.m.?

1           A. Yes.

2           Q. Okay. Let me back up for a minute. There are some  
3 things called military time?

4           A. Yes.

5           Q. And the records and the slides go sometimes back and  
6 forth between standard time and military time?

7           A. In this report are you asking?

8           Q. Yes.

9           A. Yes.

10          Q. Okay. Military time is what?

11          A. It goes from 0 to 24.

12          Q. All right. So these times are a.m. that we're  
13 looking at here?

14          A. Correct.

15          Q. Okay, all right. So between -- so at 9:59:50 there  
16 is an event for this number at this tower?

17          A. Correct.

18          Q. And then the same at 10:17?

19          A. Yes.

20          Q. I'll skip the seconds. 10:22 and so on?

21          A. Correct.

22          Q. Okay. So the between 9:59 and the last one being  
23 11:59 at this tower next to this location, which is in the  
24 vicinity of the 5300?

25          A. Well, and including the other two towers.



1 Q. We'll get to that. That's the next one.

2 A. But those are all of the events on this tower.

3 Q. Okay. Now, there are events on towers that seem to  
4 be nearby within that time range?

5 A. Yes.

6 Q. Okay. So 10:05, 10:05 and 10:44 on this tower 572?

7 A. Yes.

8 Q. Okay. And then a handful on this tower 328?

9 A. Correct.

10 Q. Backing up for a second, as far as the  
11 representations of the angles or the pink areas, what does  
12 that represent?

13 A. You mean the sector?

14 Q. The lines, the sector.

15 A. It's a general picture that shows this is where the  
16 cell phone company says its sector is. This is 120  
17 degrees of energy being pushed out of this particular  
18 antenna. It's just a depiction. Radio frequencies are  
19 not, they are not straight lines. It's not pretty like  
20 this. RF energy is kind of just shot out of the antennas.  
21 So it mixes with other nearby radio frequency and they  
22 overlap each other a little bit.

23 Similar to the sprinkler system, if you don't  
24 have a little bit of overlap with your sprinklers, the  
25 grass in the middle dies, right? And so that grass in the

1 middle in the cell phone world is dropped calls. It's  
2 when you're driving down the road and you are talking on  
3 the phone and you lose that call. Very quickly you go  
4 find another cell phone provider. So they, the cell phone  
5 companies, like to provide a little bit of overlap to keep  
6 your phone going, and that is what this yellow sector  
7 depicts. It's just a general depiction of the direction  
8 that the energy is being pushed.

9 Q. The pink section? You said yellow.

10 A. Did I say yellow? I apologize. The pink sector.

11 Q. So this is the general direction of the RF signal  
12 going out?

13 A. The general direction, yes, sir.

14 Q. The RF signal is not linear like the lines. This is  
15 basically the simplest way to depict the RF signal?

16 A. Yes, sir.

17 Q. Okay. It doesn't -- the lines stop at some point in  
18 time. The RF signal doesn't necessarily stop there. This  
19 is just a simple depiction of the direction of the RF  
20 signal?

21 A. Yes, sir.

22 Q. Okay. So as it relates to this phone -- I'll just  
23 refer to the last four digits, the 8378 -- this phone  
24 utilized three towers that are in the vicinity of 5300  
25 Lawton Street?

1       A. Yes, sir.

2       Q. And the time frames between that is -- we'll just  
3 call it 9:59 and then 10:59; is that correct?

4       A. 9:59 and 11:59, yes, sir.

5       Q. I'm sorry, thank you. 9:59 and 11:59, thank you.  
6 So 10:00 to 12:00 basically?

7       A. Basically.

8       Q. All right. Special Agent Jensen, can you tell us  
9 what we're looking at in this instance? And I'm just  
10 going to highlight the top portion for us.

11       A. So this is the next slide. It is the analysis of a  
12 different number ending in 6729 on the same day from  
13 9:59 a.m. to 11:43 a.m., and below this highlighted  
14 portion is the graphical depiction of the towers that were  
15 utilized.

16       Q. Okay. So we're talking about now the same day and  
17 the same general time frame, 9:59 to 11:43?

18       A. Yes, sir.

19       Q. Again, just so -- because this is new to the jury --  
20 these dots throughout the map would be what?

21       A. Those are all the cell towers.

22       Q. All right. Now, is this a same or different network  
23 provider than the previous slide?

24       A. 6729. If you could go to Page 3 -- could I see  
25 that? Thank you, sir. It would be Metro PCS.

1 Q. Okay. And the other one was Verizon?

2 A. Yes.

3 Q. So we have 5300 Lawton down kind of in the left-hand  
4 corner of the slide?

5 A. Yes.

6 Q. Can you tell sort of in this slide the general  
7 direction of travel of the phone?

8 A. Yes.

9 Q. Okay. And how do you do that?

10 A. You have to look at basically the totality of the  
11 slide. If you look at all the different towers throughout  
12 this area, you can see that they are spread out, things  
13 like that. When phones use towers that are in proximity  
14 to each other, like three different towers, it doesn't  
15 necessarily mean movement. Remember, that phone is always  
16 looking for the best, clear signal. So it could just be  
17 it picks one tower over the other.

18 But generally when I conduct analysis and you  
19 can see movement --

20 THE WITNESS: Sir, would you mind if I stand  
21 up?

22 THE COURT: Sure.

23 THE WITNESS: Generally when you see -- you  
24 know, this is the 959 tower for this particular phone.

25

1 BY MR. WIGOD:

2 Q. Is this what you're talking about here, 959?

3 A. Yes, sir.

4 Q. And this is connecting with a tower that's basically  
5 north of Saint Clair Shores?

6 A. Yes, sir.

7 Q. Okay.

8 A. And then if you go down, this is the 1143 tower down  
9 here, and I don't know how many miles that is.

10 Q. You mean between here and here?

11 A. Right, if you look at the totality, but there are  
12 many towers in between the 959 and the 1143 tower. And  
13 just based on the nature of cell phone networks, if the  
14 phone is up here, it's not going to connect to a tower  
15 down there, so to me it indicates movement of some sort.

16 Q. And these, these tower connections are basically  
17 nsequential in time, chronological; is that correct? And  
18 we can break it down a bit, but --

19 So say, for example, the tower at the top north  
20 of St. Clair Shores, there's a 9:59, 11:29, and then tower  
21 2632 is 10:48; is that right?

22 A. Correct.

23 Q. And then going south 11:10?

24 A. Correct.

25 Q. 11:19.

1 A. And then it's --

2 Q. 196?

3 A. Correct.

4 Q. And then 186 is 11:21, 11:22?

5 A. Correct.

6 Q. And then actually it would have been this tower,  
7 then this one, 11:11, then down here 11:30. So we are  
8 basically moving southward direction as time goes by?

9 A. Correct.

10 Q. And then as you get closer that just continues;  
11 11:30 on tower 401, 11:35 tower 461, and then down in the  
12 proximity of Lawton. Is that fair to say?

13 A. Well, and then tower 491, yes, sir.

14 Q. Yes, thank you. So let's talk about tower 491 for a  
15 minute. The red square is the Lawton address?

16 A. Yes, sir.

17 Q. And then there's a tower that's, if not closest, in  
18 the vicinity of that address that's 491?

19 A. Are you asking me if it's the closest tower?

20 Q. Yeah or at least --

21 A. It's in the area, yeah.

22 Q. Okay. And there's connections with this phone at  
23 tower 491 at 11:39 and 11:43?

24 A. Correct.

25 Q. So this would be consistent with travel from up in

1 the upper right-hand corner to down toward Lawton; is that  
2 fair to say?

3 A. Yes.

4 MR. WIGOD: If we could go back to Page 5 for  
5 a second.

6 BY MR. WIGOD:

7 Q. The 8378 number, now going back to the 8378 number,  
8 at 11:39, so this event here, the phone is connecting with  
9 which tower?

10 A. 210.

11 Q. Okay. So the tower that's basically just to the  
12 right of Lawton?

13 A. Yes.

14 Q. Just to the east of Lawton?

15 A. East of Lawton, yes, sir.

16 Q. And that same is true for 11:42 and 11:44?

17 A. Yes, sir.

18 Q. All right. Now, I just want to juxtapose that with  
19 the 6729 number. Thank you.

20 So at those times or near the same times as we  
21 were talking about before, so at 11:39 the 6729 number  
22 connects to a tower that's in the vicinity of Lawton?

23 A. It's in the vicinity, yes, sir.

24 Q. Okay. And then the same at 11:43?

25 A. Yes.

1 Q. So if we put those two slides together, basically as  
2 it relates to those times, 11:39 and 11:43 or so, those  
3 two phones are in the same vicinity?

4 A. I would say they are in the same area, yes, sir.

5 Q. Okay. And they are in the same area at the same  
6 time; is that correct?

7 A. Yes, sir.

8 Q. That time being basically 11:39 to 11:43?

9 A. Yes, sir.

10 Q. And that vicinity that both of those phones are in  
11 at the same time is 5300 Lawton?

12 A. I would say that 5300 Lawton is also in the vicinity  
13 of that area.

14 Q. So basically we have three things in the vicinity,  
15 all in the same vicinity, the Lawton address and the  
16 two cell phones?

17 A. Yes, sir.

18 Q. Okay.

19 MR. WIGOD: If we could go to Page 7, please.

20 BY MR. WIGOD:

21 Q. Just very quickly, the red dots are various cell  
22 towers?

23 A. Yes.

24 Q. And the boxes with the information are connections  
25 with 8378 with the towers?



1           A. Yes.

2           Q. Okay. And can you explain what we're looking at in  
3 this slide, please.

4           A. So, similar to the other two, this is 8378, and the  
5 bottom left-hand corner has events at 12:01 and 12:02, and  
6 you can see -- just kind of reorient yourself -- you can  
7 see 5300 Lawton down in that bottom left-hand corner, and  
8 then there are events if you -- in the middle it's  
9 12:05 and 12:07 and then up at the top there.

10          Q. So is this slide -- so these times are also  
11 sequential, 12:01, 12:02, 12:05, 12:07, and so on, as we  
12 get to the northeast?

13          A. Yeah. There's a 12:12 at the top and then 12:16,  
14 and the remaining are in that area there.

15          Q. Would this be consistent with this phone traveling  
16 basically from the lower left-hand area to the upper  
17 right-hand area?

18          A. Yes.

19          Q. And just so -- this upper right-hand area basically,  
20 this is Eight Mile, the numbers 102?

21          A. Yes.

22          Q. And then this freeway is 94?

23          A. Yes, sir.

24                   MR. WIGOD: Okay. If we could go to Page 8  
25 please.

1 BY MR. WIGOD:

2 Q. Now, we're kind of flipping back and forth between  
3 two phone numbers, the two phone number being the 8378,  
4 which we talked about, and then the 6729. And we talked  
5 about 6729 basically traveling from the northeast down to  
6 toward the 5300 Lawton. That was one of the previous  
7 slides.

8 This is now a bit later in time; is that fair to  
9 say?

10 A. Yes, sir.

11 Q. Okay. So the last activity that the 6729 phone had  
12 on Slide 6 --

13 MR. WIGOD: Actually, could you go to  
14 Slide 6, please.

15 BY MR. WIGOD:

16 Q. So this activity here, the last in time is 11:43 at  
17 this tower?

18 A. Yes, sir.

19 Q. Okay. And then the next activity that the phone  
20 had --

21 MR. WIGOD: Page 8, please.

22 BY MR. WIGOD:

23 Q. The next activity that the phone had is where?

24 A. It's 12:17 up at Harper Woods and Eastpointe.

25 Q. Okay. So this is, again, Eight Mile and 94?

1           **A.** Correct.

2           **Q.** So just as far as mapping, you're not picking and  
3 choosing within this time range which connections to map  
4 and which connections not to map?

5           **A.** That's correct, and you can tell from my title. So  
6 you can see 6729. I have to leave myself clues so I can  
7 remember a year later what I have done. "Activity on  
8 July 14th, 2014 between 12:17 and 1:53 p.m." So I would  
9 not make that -- I wouldn't put between 12:17 and 1:53 if  
10 I was picking which specific ones. It's all activity  
11 between that time period.

12           **Q.** Okay. But as far as the time frame between -- the  
13 previous slide for 6729 had activity between 9:29 and  
14 11:43?

15                       **MR. WIGOD:** Can we go to Page 6 for a second.

16 **BY MR. WIGOD:**

17           **Q.** 9:59 and 11:43?

18           **A.** Yes.

19           **Q.** And then the next jump is to 12:17 on Page 8.  
20 12:17. So is there activity between those time periods  
21 for this phone that would register on the towers?

22           **A.** So I would have to look at the records, but given,  
23 given what I have discussed with Agent Ruiz, I'm going to  
24 say no.

25           **Q.** Okay.

1           A. Yeah.

2           Q. So staying on this slide for a minute, this  
3 number 6729 is connecting with cell towers up at basically  
4 Eight Mile and 94 between 12:17 and -- now, we talked  
5 about military time. I just want to make sure for those  
6 individuals who aren't familiar with military time. We  
7 see the hour is 13. What time would 13 be?

8           A. It's 1:53 p.m.

9           Q. P.M. So it's basically subtract 12 for P.M.s?

10          A. Correct.

11          Q. Okay. So this is 12, and then 13 is one o'clock.  
12 So 13:53 would be 1:53 p.m.?

13          A. Yes.

14          Q. It's connecting with towers at Eight Mile and 94 at  
15 these time periods?

16          A. Yes. I would say closer to Eight Mile, but in that  
17 vicinity.

18          Q. All right. If you could go back to Page 7 for a  
19 second.

20                 So the other phone, 8378, also connects with  
21 towers near Eight Mile; is that fair to say?

22          A. Yes.

23          Q. All right. And what are the time periods that the  
24 8378 number connects with towers near or in the vicinity  
25 of Eight Mile?

1           A. It would be, it looks like, 12:12 p.m. to 1:55 p.m.

2           Q. And so, again, these two phones, 8378 and 6729, are  
3 in the same general vicinity at the same general time?

4           A. Yes.

5           Q. And that vicinity being basically Eight Mile near  
6 94?

7           A. Eight Mile west of 94, yes, sir.

8           Q. And all of these four slides -- we have been  
9 flipping between four slides. All of those slides are  
10 from July 14, 2014?

11          A. Yes.

12          Q. And if you need to flip, you have the exhibit.

13          A. Can I do that? Okay.

14                   Yes.

15          Q. This was not the only day -- July 14th was not the  
16 only day that you reviewed call detail records for?

17          A. Correct.

18          Q. If we could go to Page 9, please. You looked at  
19 numbers for May 1st of 2015?

20          A. Yes.

21          Q. Okay. And the two numbers in this instance are  
22 what?

23          A. 8378 and 0837.

24          Q. So the 8378 number is the same as from July 14th,  
25 but now we have a new number, 0837?

1           A.   Correct.

2           Q.   Okay.  And so this is activity for May 1st, 2015  
3           between 6:37 p.m. and 8:29 p.m.?

4           A.   Yes.

5           Q.   So these dots are cell towers?

6           A.   Correct.  There's two providers depicted.

7           Q.   Okay.  That's what I'm getting at.  Go ahead.

8           A.   The green is T-Mobile, and the black towers are  
9           Sprint.

10          Q.   Okay.  So unlike the previous slides we have been  
11          looking at, before we had separate phones on separate  
12          slides?

13          A.   Yes.

14          Q.   And each of those phones had different providers?

15          A.   Correct.

16          Q.   This now, we are kind of overlaying two phones that  
17          have two providers?

18          A.   Yes.

19          Q.   Hence, the different-colored dots?

20          A.   Correct.

21          Q.   Okay.  Now, this slide has a lot of information in  
22          it so I think we should break it down a bit, but let's  
23          start for a second, you received information from Special  
24          Agent Ruiz as far as a particular location and time that  
25          was of significance?

1           **A.** Yes.

2           **Q.** And that in this instance was what?

3           **A.** It was 15007 Troester, Detroit, and the time of  
4 interest was approximately 7:07 p.m.

5           **Q.** Okay. So we're talking about this location  
6 represented by the red square?

7           **A.** Correct.

8           **Q.** And we'll come back to the tower in a minute, but as  
9 far as the time frames on this exhibit, they are  
10 sequential as well so starting -- let's start on kind of  
11 the bottom right. Tell us what we're looking at here.

12                   **THE WITNESS:** Your Honor, do you mind?

13                   **THE COURT:** Yes.

14                   **THE WITNESS:** Do you want me to keep asking,  
15 bugging you?

16                   Okay. Just like the previous slides, this shows  
17 sectors of usage for particular cell phones, but it's got  
18 two now and so it can be a little bit crowded. The pink  
19 is 8378, and the black is 0837. And so it's showing both  
20 the Sprint usage in the black sectors and the T-Mobile --  
21 now it's T-Mobile. It was Verizon usage in the 8378.

22                   So in this area here, just from the highlighted,  
23 from about 6:41, it's 18:41 p.m., I'm sorry, 18:41 is  
24 6:41 p.m. through approximately 7:02 p.m. there was usage  
25 from both phones in this general area.

1 BY MR. WIGOD:

2 Q. So the times on this blowup here were basically  
3 between 6:44 and 7:02, combining those phones?

4 A. 6:41 and 7:02.

5 Q. Thank you. 6:41.

6 A. Yes, sir.

7 Q. Now, at some point in time it looks like both of the  
8 phones are connecting with the same tower. Is that -- we  
9 have tower CID 2390-3 and then 4213-3?

10 A. Right. It's not the same tower. So if you think  
11 of -- when I talk about cell phone towers, I'm talking  
12 about the antennas, the energy, the actual cell phone  
13 usage, but sometimes the actual cell tower is on a  
14 building or, you know, in the first picture there is just  
15 the pole with the antennas around it. So different  
16 providers sometimes use the same structure. In this case  
17 Sprint and T-Mobile may use the same pole, and there will  
18 be Sprint antennas and then T-Mobile antennas above it.

19 So if you look at the top one here, there are  
20 those three events and it looks like they are sharing the  
21 same black Sprint tower. It's really a Sprint and a  
22 T-Mobile tower. This is kind of difficult to visualize,  
23 but the top two events were from the Sprint number 0837 at  
24 those two times, and then you can see the bottom event is  
25 from 8378 and it's at 7:02.



1       Q. Okay. You touched on something that I wanted to  
2       make clear and make sure we're on the same page. In the  
3       slides we were talking about before, for each individual  
4       box we only had -- we were only dealing with one number?

5       A. I'm sorry, say that again.

6       Q. In the prior slides that we had --

7       A. The prior slides.

8       Q. -- in each box we only had one number?

9       A. Yes, sir.

10      Q. Now, since we have multiple phones with different  
11      providers on the same slide, we have multiple numbers in  
12      the same box?

13      A. Yes. It's very busy. I apologize for that.

14      Q. No. As long as we walk through it and we get it,  
15      we'll be fine. So the top two are 0837 and then the  
16      bottom one is 8378?

17      A. Yes.

18      Q. And those two numbers are connecting with a tower  
19      right here?

20      A. Correct, with their individual provider's towers,  
21      yes, sir.

22      Q. All right. And they are doing so generally rather  
23      close in time; is that fair to say? 18:59 and then 19:02?

24      A. Those are close in time, yes, sir.

25      Q. All right. Less than three minutes?

1           **A.** Yes, sir.

2           **Q.** Okay. So from at least this blowup is it fair to  
3 say at that point in time these two phones are in the same  
4 general area at the same general time?

5           **A.** Given the usage of the -- there's basically  
6 three towers per phone. I think the general area would be  
7 broader in this sense, but yes, same area.

8           **Q.** Okay. Now, you have red arrows here and then here.  
9 What are those?

10          **A.** Right. So I recognize that these slides are very  
11 busy and there's a lot of information, and just like in  
12 the other examples where there's one phone and it looks  
13 like you could see movement basically from Eastpointe down  
14 to Detroit and so on and so forth, I just wanted to make  
15 sure that I depicted just very generally -- these arrows  
16 aren't pointing to anything specifically -- but very  
17 generally the overall movement of this particular slide.

18          **Q.** So the movement is from the lower right-hand corner  
19 up to the top middle and then to the left of the screen?

20          **A.** To the west, yes, sir.

21          **Q.** Okay, to the west. All right. Now let's move to  
22 the -- these times were basically around seven o'clock and  
23 just before -- 20 minutes or so before seven o'clock?

24          **A.** Right. 6:41 to 7:02?

25          **Q.** We're going to come back to the crime scene in a

1 minute, but then there's activity for both of these two  
2 phones up near -- this is Eight Mile here, the yellow?

3 A. Yes.

4 Q. Okay. So what are we looking at here?

5 A. Again, it's cell phone activity for each phone.  
6 0837 is on the left and 8378 is on the right. It looks  
7 like it's the same tower again. This is the same general  
8 concept of two different providers using the same tower,  
9 but I would, I would note that the, the initial slide with  
10 the little arrows indicating the energy it was going,  
11 those sectors, they are not absolute. So sector one is  
12 not always pointing straight north and things like that.

13 And you can see that example here. The Sprint  
14 sector is pointing in a little bit different direction  
15 than the T-Mobile sector.

16 Q. Okay. And so these two phone numbers are connecting  
17 with the tower that's next to this house depiction?

18 A. Yes.

19 Q. Okay. And the times for 0837 are between 7:12 and  
20 8:06?

21 A. Yes.

22 Q. And then the times for the 8378 number are between  
23 7:17 and 7:25?

24 A. Yes.

25 Q. Okay. These connections -- these phones connecting

1 with this tower at these times are later in time than the  
2 ones we saw in the lower right-hand corner?

3 A. Yes, correct.

4 Q. So the times in the lower right-hand corner were  
5 6:41 to 7:02. Now we're talking about 7:12 at the  
6 earliest?

7 A. Yes.

8 Q. And they are hitting off this tower that you have  
9 depicted here. The same, same tower, it looks like?

10 A. The same structure. Different, different towers,  
11 yes, sir.

12 Q. Okay. During the same general time period?

13 A. Yes, sir.

14 Q. Okay. And that's consistent with these two phones  
15 being in the same general vicinity during the same general  
16 time?

17 A. Yes.

18 Q. Okay. So so far we have same general vicinity and  
19 same general time down here, same general vicinity and  
20 same general time up here for these two phones?

21 A. Yes, sir.

22 Q. Okay. And just back up a second. This house, this  
23 was an address given to you by Special Agent Ruiz that had  
24 some significance in the case?

25 A. Yes, sir.

1 Q. Okay. And this tower is close to that Dresden  
2 address?

3 A. Yes.

4 Q. All right. Moving now, kind of following along with  
5 your arrow to the left here, we'll do the address, so this  
6 address is 18803 Lamont here?

7 A. Yes, sir.

8 Q. Okay. Now, these times are later in time than the  
9 first set and then the second set that we have been  
10 looking at; is that fair to say? Well, for some, but not  
11 all.

12 A. For some, correct.

13 Q. Okay. Overall later in time?

14 A. Well, it is -- if you take each number individually,  
15 it is later in time for each number individually.

16 Q. All right. Thank you. That's a better way than I  
17 would have ever said it.

18 So again we have two boxes. The top is for the  
19 pink and the bottom is for the black.

20 A. Yes, sir.

21 Q. Okay. And these two phones are connecting with  
22 towers that are in the vicinity of 18803 Lamont at these  
23 particular times?

24 A. In the general vicinity, yes, sir.

25 Q. So we have basically a time sequence, this one area

1 they are together down here, two area they are together up  
2 here, and then three area they are together over near  
3 Lamont, in the same general vicinity?

4 A. Right. I want to --

5 Q. Thank you.

6 A. General vicinity.

7 Q. These two phones are in the same general vicinity  
8 during these times, these two phones are in the same  
9 general vicinity during these times, and these two phones  
10 are in the same general vicinity during this time?

11 A. Yes, sir.

12 Q. And that's sequential, meaning one, two and  
13 generally three?

14 A. Yes.

15 Q. Okay. Now let's go back to the crime scene itself.  
16 So the red square is the address that was given to you by  
17 Special Agent Ruiz?

18 A. Yes.

19 Q. And so what are we looking at in this blowup?

20 THE WITNESS: Your Honor, may I? Thank you.

21 THE COURT: Yes.

22 THE WITNESS: So this is just one tower,  
23 one physical tower, two sectors, and there's two events  
24 for phone 8378 in this area here.

1 BY MR. WIGOD:

2 Q. Okay. And so for that number -- and that's the 8378  
3 number that's connecting with this tower at these  
4 two times?

5 A. Yes.

6 Q. And those two times are less than two minutes before  
7 the time that was given to you by Agent Ruiz, the 7:07?  
8 Less than two minutes before 7:07?

9 A. Less than two minutes before 7:07, yes, sir.

10 Q. And that's a tower in general proximity of the  
11 Troester address?

12 A. Yes.

13 Q. And in this time frame, 7:07, that the 8378 phone  
14 connects with this tower here just south of the Troester  
15 address, that time frame is in between this time frame and  
16 this time frame?

17 A. You are asking if 7:07 and is in between there?

18 Q. I'm sorry, no, 7:05. The time that 8378 connects  
19 with this tower is in between these times and these times?

20 A. Correct.

21 Q. So, just backing up and clarifying a little bit,  
22 these events that we see described here in each of these  
23 boxes are actually some billable event, meaning there is  
24 an outgoing phone call, an incoming phone call, a text  
25 message or something of that nature?

1           A. Yes.

2           Q. These are not instances where the phone is searching  
3 for the best, clearest tower, these are specific events?

4           A. Correct.

5           Q. And, in order to have a record populate as far as a  
6 connection to a tower, there has to be some event for you  
7 to see it in the call detail record?

8           A. Yes.

9           Q. Okay. So when we talk about there's no -- the 0837  
10 number with the towers in proximity to the crime scene,  
11 unlike 8378, there's no connection to towers there?

12          A. In the general vicinity of the crime scene?

13          Q. Correct.

14          A. Correct.

15          Q. All right. Does that mean that the phone wasn't  
16 there?

17          A. Well, it means I don't know where the phone was.

18          Q. Okay, okay. So in order for a -- one of these  
19 events -- there has to be an event for a connection to a  
20 tower?

21          A. Yes.

22          Q. Okay. So the phone was south of 94 shortly before  
23 7:07; is that fair to say?

24          A. The 0837?

25          Q. Right.



1           A. Yes, sir.

2           Q. Okay. And then it was near Eight Mile at -- again  
3           0837, north of the crime scene and just south of  
4           Eight Mile after the event at 7:07?

5           A. Correct.

6           Q. Okay. So just kind of before we move on to the next  
7           slide, the same general vicinity for two numbers down  
8           here, the same general vicinity for the two numbers here,  
9           the same general vicinity for two numbers here, and then  
10          here there's activity for the 8378 in proximity to  
11          Troester, but there's just no activity for 0837?

12          A. Correct.

13          Q. Okay. So you can't say where the phone was during  
14          that time period of 7:07 --

15          A. Correct.

16          Q. -- for the 0837?

17          A. That's correct.

18                   MR. WIGOD: Okay. If we could go to Page 10.

19          BY MR. WIGOD:

20          Q. Special Agent Jensen, this is now a different event  
21          that you analyzed, a different day?

22          A. Yes.

23          Q. Okay. Can you tell us what we're looking at on this  
24          slide, please.

25          A. Again, two numbers, 8378 and 6022, and there was --

1 this is May 8th, 2015 between 4:03 p.m. and 6:06 p.m., and  
2 then there's an address, 7211 Meadow in Warren, Michigan.

3 Q. So as far as the numbers, we have again the 8378  
4 number that we have looked at on previous slides and then  
5 now a new number, 6022?

6 A. Yes, sir.

7 Q. And can you just walk us through what we're looking  
8 at on this slide?

9 A. So this is -- it looks like it's two towers each for  
10 each phone and they are different providers. Pardon me.  
11 6022 is Sprint, which is the black cell towers, and 8378  
12 is T-Mobile with the green cell towers, and this is their  
13 activity respectively for each of them.

14 And, I'm sorry, there is an error on this slide.  
15 It's actually 4:00 p.m., not 4:03 p.m. So it was from  
16 4:00 p.m. to 6:06 p.m. I apologize for that.

17 Q. You are referring to, down here, the earliest is  
18 4:00 p.m.?

19 A. Right. I put 4:03 in the title. It's 4:00.

20 Q. Okay. I want to just clarify something as far as  
21 the lines coming out from the tower that you have  
22 depicted, the sectors?

23 A. Yes, sir.

24 Q. All right. And are these like definitive lines,  
25 meaning you explained earlier about the RF signal and this

1 is just a general direction of the RF signal?

2 A. Yes, sir.

3 Q. All right. So you could, in theory, be on other  
4 sides of the lines and still connect with this sector?

5 A. Other sides of the lines? So the lines are not  
6 definitive limits of, of a very messy type of frequency.  
7 So it's just a visual depiction. It's the general area.  
8 It just gets the conversation started.

9 Q. Okay. So these two phones between 4:00 and  
10 6:06 connect with towers that are in the vicinity of 7211  
11 Meadow?

12 A. Yes.

13 Q. And the time periods that we're talking about here  
14 that they connect, these two phones connect with towers in  
15 the vicinity of 7211 Meadow, between the two phones, do  
16 they overlap?

17 A. The time for each phone?

18 Q. Yes.

19 A. Yes, sir, they do.

20 Q. Okay. So the two phones are in the vicinity of  
21 7211 Meadow during the same general time frame?

22 A. Yes, sir. They are in the vicinity of that address,  
23 yes, sir.

24 Q. And it's at the same general time. I just want to  
25 make sure we're not saying one phone is there at 12:00,

1 one phone is there at 8:00?

2 A. Correct. Same general area, same general time.

3 Q. And the last time event we have here is 6:06?

4 A. Yes, sir.

5 MR. WIGOD: Okay. If we could go to

6 Slide 11, please.

7 BY MR. WIGOD:

8 Q. And what are we looking at on this slide?

9 A. So this is activity for three phones now, 8378,  
10 6022, and 0837, on May 8th, 2015 between 6:14 and  
11 6:20 p.m.

12 Q. Okay. The same day as the previous slide?

13 A. Yes, sir.

14 Q. But a little further in time? The last event was  
15 6:06. This is now first event 6:14?

16 A. Yes, sir.

17 Q. So this is between 6:14 and 6:20?

18 A. Yes, sir.

19 Q. And now on this slide you said we have  
20 three separate phones?

21 A. Yes.

22 Q. One being represented by the pink?

23 A. Correct.

24 Q. And then we have purple and black?

25 A. Yes.

1 Q. Where is the purple and black on this one?

2 THE WITNESS: Your Honor, can I --

3 THE COURT: Yes.

4 THE WITNESS: So, again, this slide is a  
5 little busy, I apologize, but 6022 and 0837 are the same  
6 provider, Sprint, so they are using the same sector and  
7 it's notated here in this particular box. So you will see  
8 the first two events are 0837, and then the third event is  
9 a separate number, same tower and sector.

10 BY MR. WIGOD:

11 Q. So on this slide the three phones, are they  
12 three phones in the same general vicinity of 20304 Dresden  
13 between 6:14 p.m. and 6:20 p.m.?

14 A. Yes.

15 MR. WIGOD: If we could go to Slide 12  
16 please.

17 BY MR. WIGOD:

18 Q. And can you tell us what we're looking at on this  
19 slide?

20 A. One phone, 6022, May 8th, 2015, and it's an event at  
21 6:32 p.m.

22 Q. Okay. So this is approximately the same day as the  
23 prior two slides?

24 A. Yes.

25 Q. And approximately 12 minutes after the last event

1 from the prior slide?

2 A. Correct.

3 Q. And tell us what we are looking at on this slide.

4 A. It is -- so it's utilizing, this phone is utilizing  
5 a cell tower, 2400 Sector 3, and just to orient you, based  
6 on an address that I was given by Agent Ruiz, I just  
7 depicted it there. So it's east of, east of that address.

8 Q. Okay. So at 6:32 p.m. 6022 is connecting with a  
9 tower that's east of the Dresden address?

10 A. Correct.

11 MR. WIGOD: Can we go to 13, please.

12 BY MR. WIGOD:

13 Q. And can you tell us what we're looking at on this  
14 slide, please?

15 A. Two phones, 8378 and 0837, May 8th, 2015 between  
16 6:41 p.m. and 6:46 p.m.

17 Q. Okay. So, again, the same day, May 8th, 2015, as  
18 the prior three slides?

19 A. Is it three? One, two, three. Yes, sir.

20 Q. Later in time there's a part of three slides?

21 A. Yes, sir.

22 Q. So this is now 6:41 and 6:46?

23 A. Yes, correct.

24 Q. Now, on this slide you have kind of two separate  
25 maps that look to be in a similar area. Can you explain

1 what's going on here?

2 A. Right. So I'm just depicting the two different  
3 providers, T-Mobile on the left, Sprint on the right, and  
4 the events for 8378 on the left and the events for 0837 on  
5 the right. And, pardon me, and then the crime scene and  
6 an approximate time given to me by Agent Ruiz.

7 Q. The time given to you, the time and location of the  
8 crime scene given to you by Agent Ruiz is what?

9 A. It's approximately 6:46 p.m., and it's at the  
10 intersection of Craft and Duchess in Detroit, Michigan.

11 Q. Let's deal with the 8378 number first. So the 8378  
12 is connecting with this tower here that's --

13 A. Correct.

14 Q. And that's essentially -- it's close to the Craft  
15 and Duchess crime scene?

16 A. The structure is close, yes, sir.

17 Q. And in relation to between the 6:46 time and the  
18 time that this phone connected with this tower is what?

19 A. You said 6:46?

20 Q. Yes, sir.

21 A. Are we talking about 8378? So 6:41 and 42.

22 Q. So this is essentially four or five minutes before  
23 the --

24 A. Oh, I'm sorry, yes. Before the other phone, yes,  
25 four minutes.

1 Q. So at this point I'm talking about this phone and  
2 the crime scene time.

3 A. Yes.

4 Q. It's connecting with a tower that's close to the  
5 crime scene within a few minutes of the event?

6 A. Yes, I misunderstood.

7 Q. I don't ask very good questions often so let me know  
8 if I'm not making sense.

9 All right. Now, moving to the 0837 number,  
10 these two maps on the left and right depict the same  
11 general area?

12 A. Yes, sir.

13 Q. Okay. Then we have the crime scene in the red at  
14 6:46 p.m.?

15 A. Approximately, yes, sir.

16 Q. And the 0837 number is connecting with this tower in  
17 relation to the Craft and Duchess location?

18 A. Yes, sir.

19 Q. And at what times?

20 A. 6:42 p.m. and 6:46 p.m.

21 Q. So one time essentially at the approximate time of  
22 the crime scene?

23 A. Yes, sir.

24 Q. And one about four minutes before the crime scene?

25 A. Yes, sir.



1 Q. Okay. As it relates to those two phones, if we kind  
2 of-overlap the two maps, what would we be seeing?

3 A. Well, so even though they are two separate sprinkler  
4 systems these phones are both in the vicinity of the crime  
5 scene around the time of -- the approximate time of the  
6 crime.

7 Q. So both phones if you overlap the maps would be in  
8 the same general vicinity of the crime scene at the same  
9 general time?

10 A. Yes, sir.

11 MR. WIGOD: Okay. Could we go to Slide 14,  
12 please.

13 BY MR. WIGOD:

14 Q. Can you tell us what we're looking at on Slide 14,  
15 please.

16 A. Three phones, 8378, 6022, and 0837, and this is  
17 highlighted activity on May 8th between 7:42 p.m. and  
18 8:35 p.m.

19 Q. So the same date as the few prior slides we have  
20 been talking about?

21 A. Correct.

22 Q. Later in time though?

23 A. Correct.

24 Q. And what are we looking at in this slide?

25 A. So this slide is I believe, based on my discussion

1 with Special Agent Ruiz, this slide depicts activity as it  
2 pertains to a particular address. And I know that because  
3 of the title. It says "highlighted activity." So this is  
4 not every phone call between this time period, but it is  
5 the ones in proximity to this particular address. And so  
6 from 7:42 to 8:35 p.m. three phones utilized these cell  
7 towers.

8 **THE WITNESS:** Excuse me, Judge.

9 Again, two of the phones are the same provider so  
10 this one has two, excuse me, two phone numbers.

11 **BY MR. WIGOD:**

12 **Q.** So the 6022 and the 0837?

13 **A.** Yes, sir.

14 **Q.** So we have three phones connecting with towers in  
15 the general vicinity of 7211 Meadow?

16 **A.** Yes. And also, make a correction, that title should  
17 have said 8:40 p.m. instead of 8:35. That's the second  
18 one.

19 **Q.** That's here?

20 **A.** Yes, sir.

21 **Q.** And they are connecting with the same -- the towers  
22 in the general vicinity of 7211 Meadow, during the same  
23 general time frame?

24 **A.** Correct.

25 **Q.** Okay. Now, we have had multiple slides about the

1 May 8th event with multiple locations. I just want to  
2 kind of orientate everyone. Can you see the exhibit?

3 A. I can.

4 Q. So the 7211 Meadow, as those slides progressed, was  
5 up in this area in the upper left-hand corner?

6 A. Is this from my report?

7 Q. No, I'm sorry. This is Exhibit 40.

8 A. Okay.

9 Q. It's not from your report.

10 A. Okay. Surprising me.

11 So, yeah, top left corner.

12 Q. Top left, yes, sir.

13 A. Yes, sir.

14 Q. And that's from Page 10 of your report, essentially  
15 the location? We're not talking about cell towers.

16 A. Right, yes.

17 Q. And then if you go to Page 11 of your report, we're  
18 talking about the towers in relation to the Dresden  
19 address?

20 A. Correct.

21 Q. Okay. And then we saw a slide, and we'll go back to  
22 this, where there was a phone, the 6022 on Page 12, which  
23 connects kind of near Kelly Road and Eight Mile over in  
24 this area?

25 A. Kelly Road, yes, sir.

1 Q. Yes. And then Page 12 of your -- excuse me, Page 13  
2 of your report talks about the crime scene in the lower  
3 right-hand corner?

4 A. Yes, sir.

5 Q. And then Page 14 talks about the phones hitting back  
6 at 7211 Meadow after the crime scene?

7 A. Yes.

8 Q. All right. We're going to jump back so we can all  
9 see that a little better.

10 MR. WIGOD: Can we go to Page 10, please.

11 BY MR. WIGOD:

12 Q. So on this slide this is a few hours before the  
13 6:46 crime scene event?

14 A. It starts a few hours, yes.

15 Q. Yes, thank you. And this is, the pertinent address  
16 here is on 7211 Meadow?

17 A. Yes.

18 Q. And that was the address that we saw on the last  
19 exhibit that was kind of in the upper left-hand corner?

20 A. Top left, yes, sir.

21 Q. And then after 606 -- if you could go to the next  
22 page -- it kind of traveled down Eight Mile to the east,  
23 is that fair to say, to the Dresden address?

24 A. Yes, sir.

25 Q. Okay. So basically -- if we go back to 10 -- Meadow

1 is west of Dresden down Eight Mile a bit?

2 A. Yes.

3 Q. And then so this would be later, later in time. Not  
4 this one, but Page 11.

5 A. Yes, sir, and I'll just point out that there is an  
6 additional phone on Page 11 than on Page 10.

7 Q. Okay. At the new address on Dresden there is now an  
8 additional phone that is connected with towers in the  
9 vicinity of the Dresden address?

10 A. Yes.

11 Q. Okay. So just sequentially time wise it goes from  
12 Meadow from the upper left-hand corner on the map on here,  
13 and then to Dresden, which is depicted here?

14 A. Yes, sir.

15 Q. And that's down Eight Mile a bit basically to the  
16 right?

17 A. Yes, sir.

18 MR. WIGOD: Okay. Next slide, please.

19 BY MR. WIGOD:

20 Q. And then we talked about the corner of -- here is  
21 Dresden. This is now one of the phones hitting away from  
22 Dresden near Kelly and Eight Mile?

23 A. It's east.

24 Q. Thank you. And then progressing time wise, Page 13,  
25 this is now at the crime scene between 6:31 and 6:46 tower

1 hits?

2 A. Yes, sir, in proximity to the crime scene.

3 Q. Thank you. The crime scene being 6:46 and the tower  
4 hits in proximity to the crime scene being at 6:41, 6:42  
5 and 6:46 for the two phones?

6 A. Correct.

7 Q. Now, these two phones are different from the phone  
8 that we saw in the previous slide, Slide 12?

9 A. Yes.

10 Q. Okay. And then after the crime scene at 6:46 --  
11 Slide 14 -- we are now back at Meadow about an hour or so  
12 after the 6:46 event?

13 A. Some of the phones, yes.

14 Q. Yes. Actually at Meadow after there's three phones  
15 depicted there?

16 A. There's three phones, yes. But as it pertains to  
17 particular times, some are there at 8:11, some are there  
18 at 7:42 and some at 7:51.

19 Q. Within an hour?

20 A. Yes, sir.

21 Q. So just as far as sequence of locations, we go from  
22 7211 Meadow to Dresden, there is one phone hitting off of  
23 the area of Kelly and Eight Mile, then the crime scene,  
24 and then back at Meadow just as far as time wise,  
25 forgetting which phones are there?

1       **A.** And also I want to be clear it's not, I'm not  
2       indicating any particular address. I'm indicating a  
3       vicinity of particular addresses.

4       **Q.** Correct. And I don't -- taking away the tower, just  
5       as far as what's depicted sequentially on the addresses --

6       **A.** Oh, yes, sir.

7       **Q.** -- we're talking Meadow, Dresden, Kelly and Eight  
8       Mile, crime scene, then back to Meadow?

9       **A.** Yes, sir.

10      **Q.** That was just the sequence of the slides.

11      **A.** Correct, yes, sir.

12      **Q.** Just so we have a chronology of the slides.

13               **MR. THEIS:** Your Honor, I object to the form  
14       of the question. He is combining all of the phones as if  
15       they are one phone, and they are not all doing the same  
16       thing at the same time, they are in totally different  
17       locations, so I would object to the form of that question.

18               **THE COURT:** Mr. Wigod?

19               **MR. WIGOD:** That was my next set of questions  
20       as far as which phones are in which areas during that  
21       sequence.

22               **THE COURT:** Okay.

23       **BY MR. WIGOD:**

24       **Q.** So we have Meadow, Dresden, Eight Mile and Kelly,  
25       crime scene, back to Meadow as far as the sequence of the

1 slides?

2 A. Yes, sir.

3 Q. As far as which phones are at those sets of the  
4 locations --

5 MR. WIGOD: Can we go to Page 10, please.

6 BY MR. WIGOD:

7 Q. Here we have the 8378 and the 6022 number in the  
8 vicinity of Meadow?

9 A. In the vicinity of Meadow, yes.

10 MR. WIGOD: The next slide, 11, please.

11 BY MR. WIGOD:

12 Q. Now we pick up a phone here. Now we have 8378,  
13 6022, and pick up 0837 in the vicinity of Dresden?

14 A. Yes.

15 Q. And this would have been after Meadow?

16 A. Yes.

17 Q. And then the next slide, Slide 12, we have 6022 east  
18 of Dresden?

19 A. Yes.

20 Q. And then we have, Page 13, 8378 and 0837 in the  
21 vicinity of the crime scene?

22 A. Yes.

23 Q. And then, Page 14, we have 8378, 6022 and 0837 back  
24 in the vicinity of Meadow?

25 A. Well, when you say back in the vicinity, that would



1 be 8378 and 6022. And also, in addition to that, 0837 is  
2 now in the vicinity of Meadow because it wasn't on the  
3 original.

4 Q. Correct. Thank you, thank you. So we have -- it's  
5 back in the vicinity of Meadow for 8378 and 6022, and now  
6 it's new in the vicinity of Meadow for 0837?

7 A. Yes, sir.

8 Q. You had an opportunity to analyze some records from  
9 May 10th of 2015 --

10 A. Yes, sir.

11 Q. -- for certain cell phone numbers.

12 MR. WIGOD: Can you go to Page 15, please.

13 Your Honor, I think this next slide is going to  
14 take more than five minutes. I think some defense counsel  
15 can't stay later than 1:00 so this may be a good time to  
16 break.

17 THE COURT: All right. We will break, and  
18 we'll reconvene tomorrow morning.

19 THE CLERK: Please rise.

20 (Jury out at 12:54 p.m.)

21 (Proceedings adjourned at 12:54 p.m.)

22 - - -

23 C E R T I F I C A T I O N

24 We, Ronald DiBartolomeo and Sheri Ward, official  
25 court reporters for the United States District Court,

1 Eastern District of Michigan, Southern Division, appointed  
2 pursuant to the provisions of Title 28, United States  
3 Code, Section 753, do hereby certify that the foregoing is  
4 a correct transcript of the proceedings in the  
5 above-entitled cause on the date hereinbefore set forth.

6  
7 s/ Ronald DiBartolomeo 07/18/2018  
8 Ronald DiBartolomeo Date  
9 Official Court Reporter

10 s/ Sheri K. Ward 07/18/2018  
11 Sheri K. Ward Date  
12 Official Court Reporter

13 - - -  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25